



Karen Nations
Senior Attorney
Direct Dial: (201) 531-8053
Fax: (201) 531-2803
E-mail: knations@mfn.com

REC'D TN
REGULATORY AU
100 MAR 31 PM 3
EXECUTIVE SECRET

March 30, 2000

VIA AIRBORNE EXPRESS

Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: In the Matter of Application of Metromedia Fiber Network Services, Inc. for a
Certificate to Provide Competing Local and Interexchange
Telecommunications Services, Docket No. 00-00233

Dear Secretary:

Enclosed is an original and fourteen (14) copies of Pre-Sworn testimony of
Dennis E. Codlin and Pro Forma Financial statements for our Tennessee operations.
Please note that applicant Metromedia Fiber Network Services, Inc., considers the
Pro Forma financial statements proprietary and requests the information be kept
confidential. The statements are marked "confidential" and enclosed in the sealed
envelope.

We also include, 15 copies of Form 10-K of MFNS' parent, Metromedia Fiber
Network, Inc. MFNS will rely on its parent for all funding for its Tennessee network.

Please file the originals and 14 copies. Please return the additional copies to
me marked "filed" in the enclosed envelope.

MFNS still needs to file its Small and Minority-Owned Telecommunications
Business Participation Plan. I expect to have the completed Plan to the Authority
next week.

Please call me if you have any questions or require additional information.

Metromedia Fiber Network Services, Inc.

Legal Department, One Meadowlands Plaza, East Rutherford, NJ 07073-2137

POSTED
3/31/00

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Nations". The signature is fluid and cursive, with the first name "Karen" and the last name "Nations" clearly distinguishable.

Karen Nations

Enclosure

SASE

Cc:

Darrell Whitis

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**BEFORE THE
TENNESSEE REGULATORY AUTHORITY**

REC'D
REGULATORY

00 MAR 31

OFFICE
EXECUTIVE

In the Matter of Application of Metromedia)
Fiber Network Services, Inc. for a)
Certificate to Provide Competing Local) Docket No. 00-00233
and Interexchange Telecommunications)
Services)
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DIRECT TESTIMONY OF DENNIS E. CODLIN

Q. Please state your name, address, telephone number and title.

A. My name is Dennis E. Codlin. My business address is One North Lexington Avenue, White Plains, New York 10601, (914) 421-6708. I am Vice President – Legal Affairs of Metromedia Fiber Network Services, Inc. (MFNS).

Q. Please describe your professional experience and qualifications.

A. As Vice President – Legal Affairs and Assistant Secretary, I am the officer with overall responsibility for corporate legal requirements especially in the areas for certification, rights-of-way and franchises and network construction. I have been Vice President – Legal Affairs for MFNS since November 1997. I am also Vice President – Legal Affairs of the parent corporation, Metromedia Fiber Network, Inc., also since November 1997. Prior to joining MFN, I was employed by Metromedia Company from April 1980, most recently as Senior Associate General Counsel and Assistant Secretary.

Q. What are your present duties?

A. As Vice President – Legal Affairs I am the officer with overall responsibility for legal services and operations of the Company including the areas for certification, rights-of-way acquisition and network construction.

1 **Q. Are you familiar with the Application that was submitted by MFNS to the**
2 **Tennessee Regulatory Authority for certification to provide competing local**
3 **and interexchange telecommunications services?**

4 A. Yes, I am.

5 **Q. Do you ratify and confirm the statements that are made in MFNS'**
6 **application?**

7 A, Yes, I do.

8 **Q. What is the purpose of your testimony?**

9 A. The purpose of my testimony is to support the application of MFNS for a
10 certificate to provide competing local and interexchange telecommunications
11 services in Tennessee. My testimony specifically relates to MFNS' managerial,
12 financial, and technical competence to provide the services for which authority is
13 requested.

14 **Q. What services does MFNS propose to offer in Tennessee if the certification is**
15 **granted?**

16 A. MFNS will provide technologically advanced, high-bandwidth, fiber optic
17 communications infrastructure to communications carriers and corporate and
18 government customers. It will offer facilities-based and resold non-switched
19 dedicated local exchange, exchange access and intrastate private line, high
20 capacity fiber optic transmission facilities and services.

21 **Q. Will MFNS own and operate transmission facilities?**

22 A. Yes, MFNS intends to build a high-capacity fiber optic network within
23 Tennessee. MFNS currently operates high-bandwidth fiber optic communications

1 networks in the New York metropolitan area, the greater Philadelphia area and
2 parts of the Dallas Metroplex, Washington D.C. and Chicago areas. Our current
3 intra-city networks consist of approximately 514,000 fiber miles covering in
4 excess of 1,000 route miles. We currently plan to construct intra-city networks in
5 approximately 50 Tier I and Tier II markets in the United States.

6 MFNS has also built or obtained inter-city fiber optic capacity that links
7 our intra-city networks. MFNS built a 255 route-mile network from New York to
8 Washington D.C., which was put into operation at the end of the first quarter of
9 1999. MFNS has also obtained rights for fiber optic capacity with other facilities-
10 providers that bring MFNS' total intercity infrastructure to more than 18,000
11 route miles.

12 **Q. What is the business form of MFNS as to the proposed service?**

13 A. MFNS is a Delaware corporation and a wholly owned subsidiary of Metromedia
14 Fiber Network Inc. (MFN). MFN is listed on the NASDAQ as "MFNX". Service
15 will be marketed under the MFNS name rather than any assumed name. Exhibit
16 DEC-1 includes copies of MFNS' authority to do business in Tennessee and its
17 articles of incorporation.

1 **Q. Please describe the managerial and technical qualifications of MFNS to**
2 **provide service in Tennessee.**

3 A. The management team of MFNS includes individuals with many years of
4 experience in the telecommunications industry. The management and technical
5 experience of the company and its key personnel is fully described in Exhibit
6 DEC-2. MFNS is an experienced telecommunications facilities provider. Its
7 technical experience is extensive throughout the company as a result of previous
8 experience with local exchange, long distance and wireless services. As a result
9 of experience obtained in both regulated and competitive environments, MFNS
10 and its employees have the ability to function under the regulations of this
11 Authority and provide quality service.

12 **Q. Why should Applicant be found to be financially qualified to provide**
13 **service?**

14 A. Exhibit DEC-3 includes Form 10-K from MFNS and consolidated financial
15 reports of MFN filed with the Securities and Exchange Commission on March 17,
16 2000 which incorporate results for MFNS and other wholly owned affiliates.
17 Total (consolidated) current assets exceed \$1.3 billion and operating revenue for
18 1999 is \$75.2 million. Revenue for 1999 increased 107% from 1998 revenue.
19 Contracts to date increased by 400% to \$2 billion from \$400 million in 1998.
20 MFNS is well qualified financially and should be granted the requested license.

21 On March 6, 2000, MFN and Bell Atlantic Corporation subsidiaries closed
22 previously announced strategic agreements. In an agreement valued at \$550
23 million Bell Atlantic agreed to obtain dark fiber infrastructure from MFNS. In

1 addition Bell Atlantic invested \$700 million for approximately 9.4% of the Class
2 A common stock of MFN and approximately \$975 million in debt security
3 instruments. These instruments are convertible into common stock, and if
4 converted would increase Bell Atlantic's equity position in MFN to about 19% of
5 the Company.

6 MFN will use this new cash infusion to accelerate the build out of its
7 nationwide infrastructure including Tennessee. These agreements with Bell
8 Atlantic position MFNS to serve better the public interest of Tennessee citizens
9 by creating greater competition in the telecommunications market place and
10 permitting customers to achieve increased efficiencies and cost savings.

11 **Q. Is MFNS prepared to comply with Tennessee law and Authority regulations?**

12 A. Yes. In preparing the application, MFNS has reviewed the relevant law and
13 regulations of Tennessee to ensure constant compliance. MFNS is aware of the
14 regulatory requirements for items such as tariff filing procedures, quality of
15 service, privacy and billing practices found in specific rulings. MFNS is also
16 aware of additional regulatory compliance requirements for matters including
17 reporting, cost standards, utility assessments, imputed access, resale, withdrawal
18 of service, residential rate plans, prohibited conduct, slamming and dialing parity.
19 MFNS will comply with all applicable requirements.

20 **Q. What tariffs will MFNS file for the proposed service?**

21 A. An illustrative tariff is attached as Exhibit DEC-4 and MFNS plans to file a
22 service tariff consistent with applicable requirements as soon as the Commission
23 approves the license applications and prior to rendering any services.

1 **Q. Why do you believe approval of MFNS' application is in the public interest?**

2 A. This service will increase the options for telecommunications services available to
3 all customers in the state of Tennessee and is therefore in the public interest.

4 **Q. Does this conclude your testimony?**

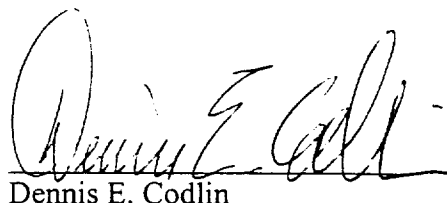
5 A. Yes.

1 **VERIFICATION**

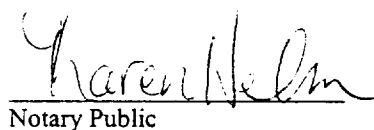
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4 STATE OF NEW JERSEY

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6 COUNTY OF BERGEN

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8 Dennis E. Codlin, being duly sworn, deposes and says: That he is the Vice President –
9 Legal Affairs of Metromedia Fiber Network Services, Inc.; that he has read the foregoing
10 Testimony and knows the contents thereof, and that the same is true of his own knowledge
11 except as to the matters therein stated upon information and belief, and as to those matters he
12 believes them to be true; that he consents to the verified affidavit being used as evidence in this
13 proceeding.

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22 Dennis E. Codlin

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22 Subscribed and sworn to before me this the 2nd day of March 2000.

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Notary Public

KAREN HELM
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires August 10, 2000

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EXHIBIT DEC-1

Secretary of State
Corporations Section
James K. Polk Building, Suite 1800
Nashville, Tennessee 37243-0306

ISSUANCE DATE: 03/15/2000
REQUEST NUMBER: 00075580
TELEPHONE CONTACT: (615) 741-6488

CHARTER/QUALIFICATION DATE: 03/09/2000
STATUS: ACTIVE
CORPORATE EXPIRATION DATE: PERPETUAL
CONTROL NUMBER: 0385993
JURISDICTION: DELAWARE

TO:
THE SEARCH IS ON
PO BOX 120598
NASHVILLE, TN 37212

REQUESTED BY:
THE SEARCH IS ON
PO BOX 120598
NASHVILLE, TN 37212

CERTIFICATE OF AUTHORIZATION

I, RILEY C DARNELL, SECRETARY OF STATE OF THE STATE OF TENNESSEE DO HEREBY CERTIFY THAT
"METROMEDIA FIBER NETWORK SERVICES, INC.",

A CORPORATION FORMED IN THE JURISDICTION SET FORTH ABOVE, IS AUTHORIZED TO
TRANSACTION BUSINESS IN THIS STATE;
THAT ALL FEES, TAXES, AND PENALTIES OWED TO THIS STATE WHICH AFFECT THE
AUTHORIZATION OF THE CORPORATION HAVE BEEN PAID;
THAT AN APPLICATION FOR CERTIFICATE OF WITHDRAWAL HAS NOT BEEN FILED.

FOR: REQUEST FOR CERTIFICATE

ON DATE: 03/15/00

FROM:
TS10 (BOX 120598)
P. O. BOX 120598
NASHVILLE, TN 37212-0000

RECEIVED:	FEES	
	\$80.00	\$0.00
TOTAL PAYMENT RECEIVED:		\$80.00

RECEIPT NUMBER: 00002541299
ACCOUNT NUMBER: 00000499



Riley C Darnell

RILEY C. DARNELL
SECRETARY OF STATE

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "METROMEDIA FIBER NETWORK SERVICES, INC." IS DULY INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TENTH DAY OF FEBRUARY, A.D. 2000.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL REPORTS HAVE BEEN FILED TO DATE.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES HAVE BEEN PAID TO DATE.



A handwritten signature in cursive script, reading "Edward J. Freel".

Edward J. Freel, Secretary of State

2842465 8300

001068418

AUTHENTICATION: 0250921

DATE: 02-10-00

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED ARE TRUE AND CORRECT COPIES OF ALL DOCUMENTS ON FILE OF "METROMEDIA FIBER NETWORK SERVICES, INC." AS RECEIVED AND FILED IN THIS OFFICE.

THE FOLLOWING DOCUMENTS HAVE BEEN CERTIFIED:

CERTIFICATE OF INCORPORATION, FILED THE SIXTH DAY OF JANUARY, A.D. 1998, AT 9 O'CLOCK A.M.

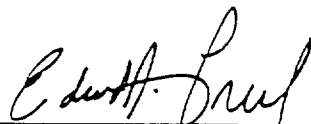
CERTIFICATE OF MERGER, FILED THE SIXTH DAY OF MARCH, A.D. 1998, AT 9:04 O'CLOCK A.M.

CERTIFICATE OF MERGER, FILED THE FOURTH DAY OF JUNE, A.D. 1998, AT 9 O'CLOCK A.M.



2842465 8100H

001068424


Edward J. Freel, Secretary of State

0251503

AUTHENTICATION:

02-10-00

DATE:

**CERTIFICATE OF INCORPORATION OF
METROMEDIA FIBER NETWORK SERVICES, INC.**

The undersigned incorporator, in order to form a corporation under the General Corporation Law of the State of Delaware (the "General Corporation Law"), certifies as follows:

1. **Name.** The name of the corporation is Metromedia Fiber Network Services, Inc. (the "Corporation").

2. **Address; Registered Office and Agent.** The address of the Corporation's registered office is 1013 Centre Road, Wilmington, Delaware. The name of the registered agent at such address is Corporation Service Company in New Castle County.

3. **Purposes.** The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law.

4. **Number of Shares.** The total number of shares of stock that the Corporation shall have authority to issue is: One thousand (1,000), all of which shall be shares of Common Stock of the par value of (\$0.01) each.

5. **Name and Mailing Address of Incorporator.** The name and mailing address of the incorporator are: Dennis E. Codlin, c/o Metromedia Fiber Network Services, Inc., 110 East 42nd Street, New York, NY 10017.

6. **Election of Directors.** Members of the Board of Directors of the Corporation (the "Board") may be elected either by written ballot or by voice vote.

7. Limitation of Liability. No director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, provided that this provision shall not eliminate or limit the liability of a director (a) for any breach of the director's duty or loyalty to the Corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (c) under section 174 of the General Corporation Law or (d) for any transaction from which the director derived any improper personal benefits.

Any repeal or modification of the foregoing provision shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

8. Indemnification.

8.1 To the extent not prohibited by law, the Corporation shall indemnify any person who is or was made, or threatened to be made, a party to any threatened, pending or completed action, suit or proceeding (a "Proceeding"), whether civil, criminal, administrative or investigative, including, without limitation, an action by or in the right of the Corporation to procure a judgment in its favor, by reason of the fact that such person, or a person of whom such person is the legal representative, is or was a director or officer of the Corporation, or, at the request of the Corporation, is or was serving as a director or officer of any other corporation or in a capacity with comparable authority or responsibilities for any partnership, joint venture, trust, employee benefit plan or other enterprise (an "Other Entity"), against judgments, fines, penalties, excise taxes, amounts paid in settlement and costs, charges and expenses (including attorneys' fees, disbursements and other charges). Persons who are not directors or officers of the Corporation (or otherwise entitled to indemnification pursuant to the preceding sentence) may be similarly

indemnified in respect of service to the Corporation or to an Other Entity at the request of the Corporation to the extent the Board at any time specifies that such persons are entitled to the benefits of this Section 8.

8.2 The Corporation shall from time to time, reimburse or advance to any director or officer or other person entitled to indemnification hereunder the funds necessary for payment of expenses, including attorneys' fees and disbursements, incurred in connection with any Proceeding, in advance of the final disposition of such Proceeding; provided, however, that, if required by the General Corporation Law, such expenses incurred by or on behalf of any director or officer or other person may be paid in advance of the final disposition of a Proceeding only upon receipt by the Corporation of an undertaking, by or on behalf of such director or officer (or other person indemnified hereunder), to repay any such amount so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal that such director, officer or other person is not entitled to be indemnified for such expenses.

8.3 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 8 shall not be deemed exclusive of any other rights to which a person seeking indemnification or reimbursement or advancement of expenses may have or hereafter be entitled under any statute, this Certificate of Incorporation, the By-laws of the Corporation (the "By-laws") any agreement, any vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

8.4 The rights to indemnification and reimbursement or advancement of expenses provided by, or granted pursuant to, this Section 8 shall continue as to a person who has ceased to be a director or officer (or other person indemnified hereunder) and shall inure to the benefit of the executors, administrators, legatees and distributees of such person.

8.5 The Corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation,

or is or was serving at the request of the Corporation as a director, officer, employee or agent of an Other Entity, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of this Section 8, the By-laws or under section 145 of the General Corporation Law or any other provision of law.

8.6 The provisions of this Section 8 shall be a contract between the Corporation, on the one hand, and each director and officer who serves in such capacity at any time while this Section 8 is in effect and any other person entitled to indemnification hereunder, on the other hand, pursuant to which the Corporation and each such director, officer, or other person intend to be, and shall be, legally bound. No repeal or modification of this Section 8 shall affect any rights or obligations with respect to any state of facts then or theretofore existing or thereafter arising or any proceeding theretofore or thereafter brought or threatened based in whole or in part upon any such state of facts.

8.7 The rights to indemnification and reimbursement or advancement or expenses provided by, or granted pursuant to, this Section 8 shall be enforceable by any person entitled to such indemnification or reimbursement or advancement of expenses in any court of competent jurisdiction. The burden of providing that such indemnification or reimbursement or advancement of expenses is not appropriate shall be on the Corporation. Neither the failure of the Corporation (including its Board, its independent legal counsel and its stockholders) to have made a determination prior to the commencement of such action that such indemnification or reimbursement or advancement of expenses is proper in the circumstances nor an actual determination by the Corporation (including its Board, its independent legal counsel and its stockholders) that such person is not entitled to such indemnification or reimbursement or advancement of expenses shall constitute a defense to the action or create a presumption that such person is not so entitled. Such a person shall also be indemnified for any expenses incurred in connection with successfully establishing

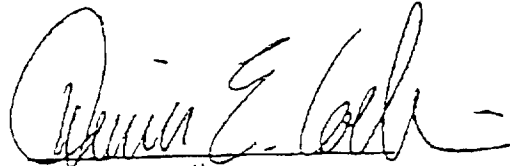
his or her right to such indemnification or reimbursement or advancement of expenses, in whole or in part, in any such proceeding.

8.8 Any director or officer of the Corporation serving in any capacity (a) another corporation of which a majority of the shares entitled to vote in the election of its directors is held, directly or indirectly, by the Corporation or (b) any employee benefit plan of the Corporation or any corporation referred to in clause (a) shall be deemed to be doing so at the request of the Corporation.

8.9 Any person entitled to be indemnified or to reimbursement or advancement of expenses as a matter of right pursuant to this Section 8 may elect to have the right to indemnification or reimbursement or advancement of expenses interpreted on the basis of the applicable law in effect at the time of the occurrence of the event or events giving rise to the applicable Proceeding, to the extent permitted by law, or on the basis of the applicable law in effect at the time such indemnification or reimbursement or advancement of expenses is sought. Such election shall be made, by a notice in writing to the Corporation, at the time indemnification or reimbursement or advancement of expenses is sought; provided, however, that if no such notice is given, the right to indemnification or reimbursement or advancement of expenses shall be determined by the law in effect at the time indemnification or reimbursement or advancement of expenses is sought.

9. Adoption, Amendment and/or Repeal of By-Laws. The Board may from time to time adopt, amend or repeal the By-laws of the Corporation; provided, however, that any By-laws adopted or amended by the Board may be amended or repealed, and any By-laws may be adopted, by the stockholders of the Corporation by vote of a majority of the holders of shares of stock of the Corporation entitled to vote in the election of directors of the Corporation.

WITNESS the signature of this Certificate this 6th day of January, 1998.

A handwritten signature in dark ink, appearing to read "Dennis E. Codlin", written over a horizontal line.

Dennis E. Codlin
Incorporator

**CERTIFICATE OF MERGER
OF
METROMEDIA FIBER NETWORK OF CONNECTICUT, INC.
AND
METROMEDIA FIBER NETWORK OF DC, INC.
AND
METROMEDIA FIBER NETWORK OF MARYLAND, INC.
AND
METROMEDIA FIBER NETWORK OF PENNSYLVANIA, INC.
AND
METROMEDIA FIBER NETWORK OF VIRGINIA, INC.
INTO
METROMEDIA FIBER NETWORK SERVICES, INC.**

**To The Secretary of State
State of Delaware:**

It is hereby certified that:

1. The constituent business corporations herein certified are:

- (i) Metromedia Fiber Network of Connecticut, Inc., which is incorporated under the laws of the State of Delaware; and
- (ii) Metromedia Fiber Network of DC, Inc., which is incorporated under the laws of the State of Delaware; and
- (iii) Metromedia Fiber Network of Maryland, Inc., which is incorporated under the laws of the State of Delaware; and
- (iv) Metromedia Fiber Network of Pennsylvania, Inc., which is incorporated under the laws of the State of Delaware; and
- (v) Metromedia Fiber Network of Virginia, Inc., which is incorporated under the laws of the State of Virginia; and
- (vi) Metromedia Fiber Network Services, Inc., which is incorporated under the laws of the State of Delaware.

2. An Agreement of Merger has been approved, adopted, certified, executed, and acknowledged by each of the aforesaid constituent business corporations in accordance with the provisions of Section 252 of the General Corporation Law of the State of Delaware by the constituents Corporations, Metromedia Fiber Network of Connecticut, Inc., Metromedia Fiber Network of DC, Inc., Metromedia Fiber Network of Maryland, Inc., Metromedia

Fiber Network of Pennsylvania, Inc., Metromedia Fiber Network of Virginia, Inc., and Metromedia Fiber Network Services, Inc.

3. The name of the surviving corporation in the merger herein certified is **Metromedia Fiber Network Services, Inc.**, which will continue its existence as said surviving corporation under its present name upon the effective date of said merger pursuant to the provisions of the General Corporation Law of the State of Delaware.

4. The Certificate of Incorporation of **Metromedia Fiber Network Services, Inc.** as now in force and effect, shall continue to be the Certificate of Incorporation of said corporation until amended and changed pursuant to the provisions of the Delaware General Corporation Law.

5. The executed Agreement of Merger between the aforesaid business corporations is on file at the aforesaid principal place of business of the aforesaid surviving corporation, the address of which is as follows:

110 East 42nd Street, Suite 1502
New York, NY 10017

6. A copy of the aforesaid Agreement of Merger will be furnished by the aforesaid surviving corporation, on request, and without cost, to any stockholder aforesaid constituent business corporations.

7. The authorized capital stock of **Metromedia Fiber Network of Virginia, Inc.** consist of 1000 shares, per value of \$01 each.

8. An Agreement of Merger between the aforesaid constituent business corporations provides that the merger herein certified shall be effective on March 6, 1998.

Dated March 6, 1998

Metromedia Fiber Network of Connecticut, Inc.

By: 

Dennis E. Codlin,

Vice President and Assistant Secretary

Metromedia Fiber Network of DC, Inc.

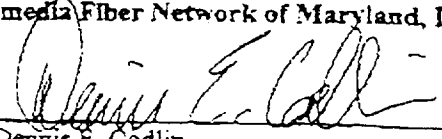
By: 

Dennis E. Codlin,

Vice President and Assistant Secretary

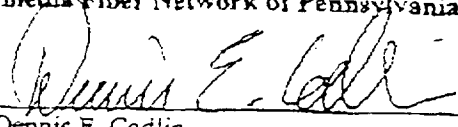
Metromedia Fiber Network of Maryland, Inc.

By:


Dennis E. Codlin,
Vice President and Assistant Secretary

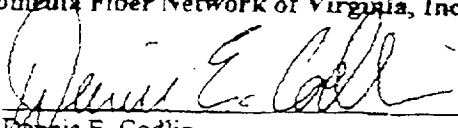
Metromedia Fiber Network of Pennsylvania, Inc.

By:


Dennis E. Codlin,
Vice President and Assistant Secretary

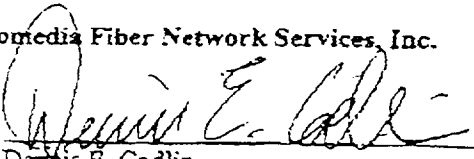
Metromedia Fiber Network of Virginia, Inc.

By:


Dennis E. Codlin,
Vice President and Assistant Secretary

Metromedia Fiber Network Services, Inc.

By:


Dennis E. Codlin,
Vice President and Assistant Secretary

STATE OF DELAWARE
CERTIFICATE OF MERGER OR CONSOLIDATION
OF DOMESTIC CORPORATIONS AND
LIMITED LIABILITY COMPANIES

Pursuant to Title 8, Section 264 of the Delaware General Corporation Law, the undersigned corporations executed the following certificate of Merger:

FIRST: The name of the surviving corporation is **Metromedia Fiber Network Services, Inc.**, a Delaware corporation, and the names of the corporation and limited liability companies being merged into this corporation are **Metromedia Fiber Network of Inc.**, a Delaware corporation, **MFN of IL, L.L.C.**, a Delaware limited liability company, and **MFN of NY, L.L.C.**, a Delaware limited liability company. New York,

SECOND: The Agreement of Merger has been approved, adopted, certified, executed, and acknowledged by the surviving corporation, the merging corporation, and the merging limited liability companies.

THIRD: The name of the surviving corporation is **Metromedia Fiber Network Services, Inc.**, a Delaware corporation.

FOURTH: The merger is to become effective upon filing.

FIFTH: The Agreement and Plan of Merger is on file at One North Lexington Avenue, White Plains, New York 10601, the place of Business of the surviving corporation.

SIXTH: A copy of the Agreement of Merger will be furnished by the corporation on request, without cost, to any stockholder of the surviving corporation or stockholder of the merging corporation or member of the merging limited liability companies.

SEVENTH: The Certificate of Incorporation of the surviving corporation shall be its Certificate of Incorporation.

IN WITNESS WHEREOF, said corporations have caused this certificate to be signed by an authorized officer and/or member, the 28th day of May 1998.

Metromedia Fiber Network of Services, Inc.

By: 

Dennis E. Codlin,
Vice President and Assistant Secretary

Metromedia Fiber Network of New York, Inc.

By: 

Dennis E. Codlin,
Vice President and Assistant Secretary

MFN of IL, L.L.C.

By: **Metromedia Fiber Network of Illinois, Inc.**
Sole Member

By: 

Dennis E. Codlin,
Vice President and Assistant Secretary

MFN of NY, L.L.C.

By: **Metromedia Fiber Network of NY, Inc.**
Sole Member

By: 

Dennis E. Codlin,
Vice President and Assistant Secretary

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Managerial Qualifications

Stephen A. Garofalo: Chairman and Chief Executive Officer

Stephen A. Garofalo is Chairman and Chief Executive Officer of MFNS. In addition, Mr. Garofalo founded MFN in April 1993, and has been serving as Chairman of the Board since MFN's inception and as Chief Executive Officer since October 1996. Mr. Garofalo also served as MFN's President from 1993 to 1996 and as Secretary from 1993 to 1997. From 1979 to 1993, Mr. Garofalo served as president and chief executive officer of F. Garofalo Electric Co., Inc.

Howard M. Finkelstein: Vice Chairman

Howard M. Finkelstein is MFNS' Vice-Chairman. Mr. Finkelstein joined MFNS in April 1997. Prior to joining MFN, Mr. Finkelstein was employed by various affiliates of Metromedia Company for 16 years. His most recent position was as Executive Vice President and Chief Operating Officer of Metromedia International Telecommunications, Inc. From 1984 to 1993, Mr. Finkelstein served as President of Metromedia Communications Corporation, a national long distance telecommunications carrier. In addition, Mr. Finkelstein served as Executive Vice President and Chief Operating Officer of Metromedia Restaurant Group from 1993 to 1995. Mr. Finkelstein is a Director of Multimedia Medical Systems, Incorporated, a privately held company.

Nicholas M. Tanzi: President and Chief Operating Officer

Nicholas M. Tanzi is MFNS' President and Chief Operating Officer. Previously he was Senior Vice President - Eastern Region. Mr. Tanzi joined MFN in 1997. From March 1995 to July 1997, he served as Vice President Enterprise Networks Division at Fujitsu Business Communications Systems. From April 1993 to February 1995, Mr. Tanzi was Director of Sales, Eastern Region at Asante Technologies Inc. From November 1979 through October 1993 Mr. Tanzi was employed in various capacities at Digital Equipment Corporation.

Gerard Benedetto: Senior Vice President and Chief Financial Officer

Gerard Benedetto is MFNS' Chief Financial Officer. His most recent position was as Chief Accounting Officer for Metromedia International Telecommunications, Inc., a subsidiary of Metromedia International Group, from July 1997 to December 1997. Prior to that he was Chief Financial Officer of Metromedia Restaurant Group from October 1993 to July 1995. In addition, Mr. Benedetto was Chief Financial Officer of Metromedia Communications Corporation, a national long distance telecommunications carrier, from 1985 to 1993. Mr. Benedetto is also a Certified Public Accountant.

1 **Vincent A. Galluccio: Senior Vice President--Business Development**

2
3 Vincent A. Galluccio is MFNS' Senior Vice President of Business Development.
4 In addition, Mr. Galluccio has been a Director of MFN since February 1997 and has
5 served as a Senior Vice President since December 1995. From January 1992 to October
6 1994, Mr. Galluccio was employed by British Telecommunications Plc. as a global sales
7 manager for network outsourcing operations. Prior to joining British
8 Telecommunications Plc., Mr. Galluccio spent 25 years with International Business
9 Machines Corporation in various sales, marketing, and business development positions
10 and was involved in both domestic and world trade assignments.
11

12 **Charlotte D. Denenberg: Vice President and Chief Technology Officer**

13
14 Dr. Charlotte D. Denenberg is MFNS' Vice President and Chief Technology Officer.
15 Prior to joining MFNS, Dr. Denenberg worked for Southern New England Telephone
16 Company for a period of 11 years, most recently as Vice President - Network Technology
17 and Chief Technology Officer. Prior to that, she held various leadership positions with
18 ITT Corporation and AT&T Bell Labs, now part of Lucent Technologies. Currently, Dr.
19 Denenberg serves on the Board of Directors of the University of New Haven and chairs
20 its distance learning committee. She is also a member of the Alliance for
21 Telecommunications Industry Solutions (ATIS) and a founding member of the
22 Connecticut Technology Council.
23

24 **Dennis E. Codlin: Vice President of Legal Affairs and Assistant Secretary**

25
26 Dennis E. Codlin is MFNS' Vice President of Legal Affairs and Assistant
27 Secretary. In addition, Mr. Codlin has been Vice President-Legal Affairs of MFN since
28 November 1997. Prior to joining the Company, Mr. Codlin was employed by
29 Metromedia Company in its Legal Department since 1980, most recently as Senior
30 Associate General Counsel and Assistant Secretary. Mr. Codlin was also an Assistant
31 Secretary of Metromedia International Group, Inc.
32

33 **Steven J. Joffe: Vice President -- Tax**

34
35 Steven J. Joffe is MFNS' Vice President of Tax. In addition, Mr. Joffe has been
36 Vice President - Tax of MFN since May 1998 and serves as Vice President - Tax and
37 Associate General Counsel of Metromedia Company and various affiliates of
38 Metromedia Company. Prior to joining Metromedia Company in April of 1994, Mr.
39 Joffe was a Senior Tax Manager with Price Waterhouse from May 1998 to March 1994.
40 From August 1977 through April 1988, Mr. Joffe practiced law in New York City with
41 Marshall, Bratter, Greene, Allison & Tucker; Seyfarth, Shaw, Fairweather & Geraldson
42 and O'Sullivan, Graev & Karabell.

1 **Arnold L. Wadler: General Counsel and Secretary**
2

3 Mr. Wadler is General Counsel and Secretary of MFNS and has served as a Director of
4 MFN since July 1997. Mr. Wadler has served as Executive Vice President, General Counsel and
5 Secretary of Metromedia International Group ("MIG") since August 29, 1996, and from
6 November 1, 1995, until that date, as Senior Vice President, General Counsel and Secretary of
7 MIG. In addition, Mr. Wadler served as a Director of Orion from 1991 to July 1997 and as a
8 Senior Vice President, Secretary and General Counsel of Metromedia Company for over five
9 years.
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

(Mark One)



ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 1999

OR



TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 (NO FEE REQUIRED)

For the transition period from _____ to _____

Commission File Number 000-23269

METROMEDIA FIBER NETWORK, INC.

(Exact name of registrant, as specified in its charter)

DELAWARE

(State or other jurisdiction
of incorporation or organization)

11-3168327

(I.R.S. Employer
Identification No.)

c/o Metromedia Fiber Network Services, Inc.

1 North Lexington Avenue

White Plains, NY 10601

(Address and zip code of principal executive offices)

(914) 421-6700

(Registrant's telephone number, include area code)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Class A Common Stock, par value \$.01 per share

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K. ☒

The aggregate market value of voting stock and non-voting common equity of the registrant held by nonaffiliates of the registrant was approximately \$35,351,355,821 as of March 14, 2000 based on the last reported bid quotation on the Nasdaq National Market as of that date. The number of shares of Class A Common Stock outstanding as of March 14, 2000 was 472,433,592. The number of shares of Class B Common Stock outstanding as of March 14, 2000 was 67,538,544.

Documents Incorporated by Reference

Portions of the Definitive Proxy Statement to be used in connection with the Registrant's 2000 Annual Meeting of Stockholders, to be held on May 16, 2000, are incorporated by reference into Part III of this Annual Report on Form 10-K.

METROMEDIA FIBER NETWORK, INC. & SUBSIDIARIES
ANNUAL REPORT ON FORM 10-K
FOR THE YEAR ENDED DECEMBER 31, 1999
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PART I

Special Note Regarding Forward-looking Statements

Certain statements in this Annual Report on Form 10-K (this "Form 10-K"), including statements under "Item 1. Business," "Item 3 Legal Proceedings" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations," constitute "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, and the Private Securities Litigation Reform Act of 1995 (collectively, the "Reform Act"). Certain, but not necessarily all, of such forward-looking statements can be identified by the use of forward-looking terminology such as "believes," "expects," "may," "will," "should," or "anticipates" or the negative thereof or other variations thereon or comparable terminology, or by discussions of strategy that involve risks and uncertainties. Such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements of Metromedia Fiber Network, Inc. and its subsidiaries (collectively, the "Company", "we" or "us") to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. Such factors include, but are not limited to, the following: general economic and business conditions; competition in the telecommunications and internet services industries; industry capacity; success of acquisitions and operating initiatives; management of growth; dependence on senior management; brand awareness; general risks of the telecommunications and internet services industries; development risk; risk relating to the availability of financing; the existence or absence of adverse publicity; changes in business strategy or development plan; availability, terms and deployment of capital; business abilities and judgment of personnel; availability of qualified personnel; labor and employee benefit costs; changes in, or failure to comply with, government regulations; construction schedules; the costs and other effects of legal and administrative proceedings; changes in methods of marketing and technology; changes in political, social and economic conditions and other factors referenced in this Form 10-K. The Company does not undertake and specifically declines any obligation to publicly release the results of any revisions which may be made to any forward-looking statement to reflect events or circumstances after the date of such statements or to reflect the occurrence of anticipated or unanticipated events.

Item 1. Business

General

We provide dedicated fiber optic infrastructure and high-bandwidth Internet connectivity for our communications intensive customers. We are a facilities-based provider of technologically advanced, high-bandwidth, fiber optic communications infrastructure to communications carriers and corporate and government customers in the United States and Europe. Through our acquisition of AboveNet Communications, Inc., we also provide "one-hop" connectivity that enables mission critical Internet applications to thrive, as well as high-bandwidth infrastructure, including managed co-location services.

We currently have operations in, or under construction in, eleven Tier I cities throughout the United States and seven selected international markets. We intend to expand our presence to include approximately 50 Tier I and Tier II markets in the United States and 17 major international markets.

The Intra-City Networks. Our existing intra-city networks consist of approximately 514,000 fiber miles covering in excess of 1,000 route miles in the first eleven Tier I cities. We are currently working to expand our existing local intra-city networks in these metropolitan areas, and to construct additional intra-city networks in approximately 40 additional Tier I and Tier II markets in the United States.

The Inter-City Networks. Our inter-city network currently consists of approximately 132,000 fiber miles primarily covering our 255 route-mile network that we have built between New York City and Washington, D.C. We have also built or contracted to acquire - primarily through fiber swaps - a nationwide dark fiber network linking our intra-city networks.

The International Networks. In addition to our domestic networks, we intend to expand our international presence to include approximately 17 major markets. In February 1999, we entered into an agreement with Viatel, Inc. and Carner 1 Holdings, Ltd. to jointly build a dark fiber inter-city network between selected cities throughout Germany. Once completed, our German network will consist of approximately 320,000 fiber miles covering in excess of 1,450 route

miles connecting 14 major cities. We have also swapped strands of fiber in the United States for strands of fiber on the Circe network, which connects a number of European markets. In addition to our inter-city networks, we are constructing 16 intra-city networks throughout Europe. Separately, we have also entered into a contract to acquire rights to dark fiber network facilities in Toronto, Canada.

Internet Connectivity and Exchange. Through our acquisition of AboveNet, we are a leading provider of high performance Internet connectivity services to a wide range of Internet service providers, Internet content providers and Web hosting companies and facilities - based, managed co-location services. Our Internet exchange server facilities provide high performance, reliable and scalable solutions for electronic commerce and other business critical applications. AboveNet developed a network architecture based upon strategically located, fault-tolerant Internet exchange servers. We currently operate two Internet service exchange campuses, located near two of the major Internet access points, metropolitan area exchange (often referred to as "MAE") West and MAE East, using our suite of sophisticated network management and remote monitoring tools. We believe that our centralized network architecture provides enhanced connectivity while eliminating the need to build numerous geographically dispersed data centers. AboveNet's Internet service exchange model offers customers the benefits of combining direct Internet service providers access with co-location services for Internet content providers. As of December 31, 1999, AboveNet had more than 385 direct public and private data exchange agreements, known as peering arrangements, including relationships with most major network providers. The convergence of content providers and Internet service providers at our Internet service exchanges enables Internet service provider customers to provide their users with "one hop" connectivity, through our local area network, to the Web sites of the Internet content providers that are co-located at the same site. This direct connectivity minimizes the risk of delays and data loss often encountered in the transmission of data over the public Internet infrastructure.

AboveNet's wholly-owned subsidiary Palo Alto Internet Exchange ("PAIX"), began operations in 1996 as Digital Equipment Corporation's Palo Alto Internet Exchange. Having proven itself as a vital part of the Internet infrastructure, PAIX serves as a packet switching center for Internet service providers or ISPs. PAIX also offers secure, fault-tolerant co-location services to ISPs. PAIX is the only major commercial internet exchange - IX - that is not owned by a telecommunications carrier, which enables ISPs at PAIX to form public and private peering relationships with each other and choose from multiple telecommunications carriers for circuits, all within the same facility.

Customers. We are focused on providing our broadband communications infrastructure and Internet connectivity services to two main customer groups located in Tier I and Tier II markets: communications carriers and corporate/government customers.

Our targeted customers include a broad range of companies such as:

- incumbent local exchange carriers or ILECs;
- competitive local exchange carriers or CLECs;
- long distance companies/IXCs;
- paging, cellular and PCS companies;
- cable companies;
- ISPs; and
- Web hosting and e-commerce companies.

Our dark fiber customers typically lease our fiber optic capacity with which they develop their own communications networks. Leasing our fiber optic capacity is a low-cost alternative to building their own infrastructure or purchasing metered services from ILECs or CLECs. Our Internet connectivity and co-location customers typically lease bandwidth and co-location space which allows them to provide their Internet related services on a reliable and cost-effective basis. We believe that we are well-positioned to penetrate our target customer base since we plan to continue to install most of our dark fiber networks and Internet service exchanges in major markets where these customers are concentrated. We believe our target customers for our dark fiber and Internet connectivity are complementary and will provide significant cross selling opportunities.

Network Infrastructure. We have designed our networks to provide high levels of reliability, security and flexibility by virtue of a self-healing SONET architecture that prevents interruption in service to our clients by instantaneously rerouting traffic in the event of a fiber cut. Our advanced network architecture is also capable of supporting state-of-the-art technologies, including DWDM (dense wave division multiplexing), which significantly increases the transmission capacity of a strand of fiber optic cable. Because DWDM can boost transmission capacity significantly, it has greater relevance on our inter-city routes where we have, on average, fewer strands of fiber installed than in our intra-city markets. Where practicable, we install additional unused conduits to cost effectively accommodate future network expansion and eliminate the need for future construction.

Market Opportunity. We believe that the market for our dark fiber services is characterized by significant and growing demand for, and limited supply of, fiber optic capacity. To meet our customers' demand, we tailor the amount of fiber capacity leased to the needs of our customers. Generally, customers lease fiber optic capacity from us and connect their own transmission equipment to the leased fiber, thereby obtaining a high-bandwidth, fixed-cost, secure communications alternative to the metered communications services offered by traditional providers. In addition, we believe that we have installation, operating and maintenance cost advantages per fiber mile relative to our competitors because we generally install 432 fibers, and have begun installing as many as 864 fibers, per route mile, as compared to the generally lower number of fibers per mile in existing competitive networks.

We believe the market for our Internet service exchanges is characterized by significant and growing demand for, and limited access to, highly reliable Internet connectivity and co-location services. To meet our customers' demands, we provide scalable connectivity and co-location services that drive our customers' electronic commerce and other mission critical Internet applications. Our customers lease bandwidth and co-location space from us to gain highly reliable, secure and cost effective Internet connectivity. Through our existing and planned networks, we believe we have the low cost position relative to those competitors who lease rather than own their networks.

Management Expertise. We benefit from the support of our controlling stockholder Metromedia Company. On April 30, 1997, Metromedia Company and certain of its affiliates made a substantial equity investment in our company (the "Metromedia Investment"). As a result, Metromedia Company and its partners own all of our outstanding shares of class B common stock, par value \$.01 per share. Our class B common stock is entitled to 10 votes per share and to vote separately to elect at least 75% of the members of the Board of Directors. As of December 31, 1999, Metromedia Company and its partners own and control approximately 62.2% of the outstanding voting power of our company; after the Bell Atlantic investment, Metromedia Company and its partners own and control approximately 58.8% of such outstanding voting power.

Bell Atlantic Investment. We also anticipate benefits from the March 6, 1999 investment in us by Bell Atlantic Investments, Inc.. On October 7, 1999, we entered into a securities purchase agreement with Bell Atlantic, under which Bell Atlantic Investments would purchase up to approximately 51.2 million newly issued shares of our class A common stock at a purchase price of \$14.00 per share and a convertible subordinated note of approximately \$975.3 million, which is convertible into shares of our class A common stock at a conversion price of \$17.00 per share. This transaction closed on March 6, 2000. After the issuance of the 51.2 million shares of class A common stock and assuming conversion of the convertible subordinated note, this investment would represent 18.2% of our outstanding shares. Bell Atlantic has also agreed to pay us \$550 million over the next three years in exchange for delivery of fiber optic facilities over the next five years. The proceeds from these two transactions will be used to fund the expansion of our network.

Business Strategy

Our objective is to become the preferred facilities-based provider of broadband communications infrastructure and Internet connectivity solutions to communications carriers, corporations and government agencies, in our target markets. The following are the key elements of our strategy to achieve this objective:

Establish the Company as the Preferred Carriers' Carrier of Broadband Communications Infrastructure and Internet Connectivity Solutions

- Lease broadband communications infrastructure on a fixed cost basis;
- Enable carriers to penetrate markets previously too costly to build or purchase;

- Continue to differentiate ourselves as the only company with a central mission of providing dark fiber on a fixed cost basis;
- Lease high-bandwidth long haul capacity to provide seamless connectivity between our intra-city networks;
- Provide Internet connectivity services through leasing bandwidth and co-location space to ISPs;
- Enable ISPs to provide reliable, high-quality Internet access services; and
- Capitalize on the fact that we do not offer competing metered communications or retail Internet connectivity solutions in competition with our carrier and ISP customers.

Position the Company as the Preferred Provider of Broadband Communications Infrastructure and Internet Connectivity Services to Corporate and Government Customers

- Target broadband communications infrastructure customers with significant transmission and high security needs;
- Provide scalable services for customers seeking lower broadband transmission capacity;
- Offer our dark fiber services on a fixed cost rather than metered basis, to provide a more economical solution to our customers;
- Target Internet connectivity customers who require reliable, secure and cost effective connectivity to the Internet to drive their electronic commerce and other mission critical business Internet applications; and
- Capitalize on the complementary customer bases for our infrastructure and Internet connectivity services through effective cross selling.

Replicate Successful Business Model in New Markets

- Leverage our success in existing markets by replicating our network architecture in a number of additional markets;
- Rapidly roll out our U.S. network to a total of approximately 50 intra-city networks in Tier I and Tier II markets;
- Expand our international market coverage to a total of approximately 17 markets; and
- Deploy Internet service exchanges in selected U.S. and international markets, replicating the successful AboveNet design.

Create a Low Cost Position

- Provide our customers a cost effective alternative to constructing their own networks and Internet connectivity facilities;
- Install trunks with up to 864 fibers per route mile, which is substantially more fiber than we believe our competitors are installing, reducing our per mile cost to construct, upgrade and operate our networks;
- Capitalize on the operating and maintenance cost advantages generated by our newly constructed networks, with advanced fiber optic technology;
- Create first mover advantages for us versus new entrants by securing rights of way and building our networks quickly;
- Install spare conduit where practical to reduce expansion and upgrade costs in the future and provide significant excess capacity;
- Establish a low cost advantage for our Internet connectivity services by utilizing our own network rather than leasing capacity like some of our competitors; and
- Use our low cost position to remain price competitive with other providers of broadband communications infrastructure and Internet connectivity services.

Utilize Fiber Swaps and Strategic Relationships to Expand the Reach of Our Networks

- Opportunistically utilize fiber swaps, as we have in the past, to expand our network reach at little incremental cost; and
- Enter into strategic relationships, such as our joint build arrangement with Viatel, to cost effectively expand our network footprint.

Expand Product and Service Offerings to Utilize Dark Fiber Network Capacity.

- Vertically expand our service offering by identifying additional uses for our dark fiber network, such as with the AboveNet acquisition, that will drive new revenue opportunities and cost synergies;
- Maintain our competitive advantage by offering services that do not directly compete with our carrier customers; and
- Focus on serving our carrier and large corporate/government customers' bandwidth intensive communications needs.

Install Technologically Advanced Networks and Internet Service Exchanges

- Continue to install a technologically advanced network based on self-healing SONET architecture;
- Use our self-healing SONET architecture to minimize the interruption to service caused by fiber cuts;
- Construct our networks to deliver the high levels of reliability, security and flexibility that our customers demand;
- Continually monitor and maintain quality control over our networks on a 24-hour basis;
- Continue to ensure our network is capable of providing the highest commercially available capacity transmission (OC-192) to support capacity intensive data applications such as Frame Relay, ATM and Internet applications;
- Provide fault tolerant Internet service exchange facilities designed to enable the uninterrupted operations necessary for mission critical business applications; and
- Use our proprietary software to monitor our network connections for latency and packet loss and automatically reroute Internet traffic to avoid Internet congestion points.

Build on Management Experience and Metromedia Company Relationship

Leverage the communications industry knowledge and sales expertise of our management team and board of directors including:

- Stephen Garofalo, our Chairman and Chief Executive Officer and founder, who has approximately 25 years of experience in the cable installation business;
- Howard M. Finkelstein, our Vice Chairman who served in various capacities in Metromedia Company and its affiliates over a period of 16 years, including 9 years as President of Metromedia Company's long distance telephone company, until its merger with MCI/WorldCom, Inc. in 1993;
- Nick Tanzi, our President and Chief Operating Officer, who served as Vice President - Sales from August 1997 to January 2000, and has held various executive positions in the telecommunications industry;
- David Rand and Sherman Tuan who joined our Board of Directors following the acquisition of AboveNet and have extensive experience with Internet related ventures; and
- John W. Kluge, Stuart Subotnick and David Rockefeller, each of whom bring extensive communications industry expertise and corporate governance experience.

Build-out of Networks

We have concentrated on developing and constructing our networks. We have either obtained or are currently pursuing the acquisition of necessary licenses, franchises and rights-of-way to construct these networks. In constructing our fiber optic networks, we seek to create strategic alliances with the engineering and construction management firms that we have engaged to develop routes, easements and manage deployment plans. Firms with whom we are allied in this regard have deployed local loop network infrastructure for ILECs as well as for CLECs. Though we anticipate outsourcing much of the actual construction to various construction firms, we maintain strict oversight of the design and implementation of our fiber optic communications networks. We utilize only advanced commercially available fiber. We have ordered a substantial portion of our fiber optic cable from Lucent Technologies, Inc. However, we believe that we could obtain advanced fiber from other suppliers on acceptable terms.

Our existing intra-city networks currently consist of approximately 514,000 fiber miles covering in excess of 1,000 route miles in six of our announced markets. Our inter-city network consists of approximately 132,000 fiber miles primarily covering our 255 route-mile network that we have built between New York City and Washington D.C. We have also built or, contracted to acquire, primarily through fiber swaps, a nationwide dark fiber network linking our intra-city networks.

We have also entered into an agreement with Carrier I Holdings, Ltd. and Viatel, Inc., to jointly build a dark fiber intercity network between selected cities throughout Germany. Once completed, our German inter-city network will consist of approximately 320,000 fiber miles covering in excess of 1,450 route miles that will connect 14 of Germany's largest cities such as Hamburg, Berlin, Munich, Frankfurt and Dusseldorf. We have also swapped strands of fiber in the United States for strands of fiber on the Circe network, which connects a number of European markets. In addition to our inter-city networks, we are constructing 16 intra-city networks throughout Europe. Separately, we have also entered into a contract to acquire rights to dark fiber network facilities in Toronto, Canada. Our networks will be high-capacity broadband networks capable of supporting high-quality voice, video, internet protocol and data traffic and built using a self-healing SONET architecture.

The Internet Service Exchange

Our Internet service exchanges provide co-location services, Internet connectivity services, network management services and tools. Our Internet service exchanges are designed to provide customers with the high performance, scalability, connectivity, security, reliability and expertise they need to enhance their business critical Internet applications. We create solutions for our customers based on their specific business and technical requirements, modifying the services as each customer's needs evolve. Our Internet related services are primarily delivered through centralized campuses located near MAE West and MAE East. Our New York facility is connected to our facility located near MAE East by high speed, high capacity fiber optic cable. This facility is intended to facilitate access to European Internet traffic. Our management services and tools enable us and our customers to continuously manage their Internet operations jointly, proactively and remotely.

Internet Connectivity

Our Internet connectivity services are designed to meet the requirements of high bandwidth, business critical Internet operations by providing highly reliable, scalable, non-stop and uncongested operations. As of December 31, 1999, AboveNet had peering relationships with more than 385 network providers, covering over 1,000 peering points. Any failure by AboveNet to maintain and increase peering relationships would have a material adverse effect on our business, results of operations and financial condition.

Our network is designed to minimize the likelihood of service interruptions. Each ISX has multiple physical fiber paths into the facility. We maintain multiple network links from multiple vendors and regularly check that our network traffic traverses physically separated paths. This network architecture enhances the availability of a customer's site, even in the event of a link failure. In addition, since our customers' Internet operations often experience network traffic spikes due to promotions or events, we have a policy of maintaining significant excess capacity. We might not be able to expand or adapt our telecommunications infrastructure to meet additional demand or our customers' changing requirements on a timely basis and at a commercially reasonable cost, or at all.

Our Internet connectivity services are also designed to reduce latency and to enhance network performance. Our engineering personnel continuously monitor traffic patterns and congestion points throughout the Internet and dynamically reroute traffic flows to improve end-user response times. We also enhance network performance by

maintaining what we believe is among the largest number of direct public and private network peering interconnections in the industry. For customers seeking a direct communications link to the site of another customer that is located at the same ISX, we offer highly secure, fast and efficient cross-connections.

Co-Location Services

We provide co-location services designed to meet the demands of sophisticated, multi-vendor business critical Internet operations. We support most leading Internet hardware and software system vendor platforms, including those from Ascend Communications, Inc., Nortel Networks, Cisco Systems, Inc., Compaq Computer Corporation, Dell Computer Corporation, EMC Corporation, Hewlett-Packard Company, International Business Machines Corporation, Lucent Technologies Inc., Microsoft Corporation, Apple Computer, Inc., Network Appliance, Inc., Silicon Graphics Inc., Sun Microsystems Inc. and 3Com Corporation. This multi-vendor compatibility enables our customers to retain control over their choice of technical solution and to integrate their Internet operations into our existing information technology architecture. Because business critical Internet operations are dynamic and often require timely hardware and software upgrades to maintain targeted service levels, customers have twenty-four hours a day, seven days a week physical and remote access to the ISX facilities. Additional space and electrical power can be added as needed in order to provide our customers with access to additional server co-location services. Customers install and manage their own hardware and software at our facilities. We do not provide any Web hosting services.

Management Services and Tools

Our management services and tools support business critical Internet operations by providing the customer with detailed monitoring, reporting and management tools to control their hardware, network, software and application environments. Through our network management services and tools, customers are able to remotely manage their business critical Internet operations housed at our ISX facilities. We believe that this provides an important advantage to enterprises that seek to outsource a portion of their Internet operations and to link the management of the outsourced operations with in-house operations. Our proactive management services and tools enable us to identify and resolve hardware, software, network and application problems, often before the customer is aware that a problem exists.

Technology

Our networks consist of fiber optic communications networks which allow for high speed, high quality transmission of voice, data and video. Fiber optic systems use laser-generated light to transmit voice, data and video in digital formats through ultra-thin strands of glass. Fiber optic systems are generally characterized by large circuit capacity, good sound quality, resistance to external signal interference and direct interface to digital switching equipment or digital microwave systems. We plan to install backbone fiber optic cables containing up to 864 fiber optic strands, which have significantly greater bandwidth than traditional analog copper cables. Using current electronic transmitting devices, a single pair of glass fibers used by our network can transmit up to 8.6 gigabits of data per second or the equivalent of approximately 129,000 simultaneous voice conversations, which is substantially more than traditional analog copper cable installed in many current communications networks. We believe that continuing developments in compression technology and multiplexing equipment will increase the capacity of each fiber optic strand, thereby providing more bandwidth carrying capacity at relatively low incremental costs. Our network is capable of using the highest commercially available capacity transmission (OC-192) and thereby can handle advanced, capacity-intensive data applications such as voice over Internet Protocol, video teleconferencing, Frame Relay, ATM, multimedia and Internet-related applications. In our intra-city networks, we offer end-to-end fiber optic capacity, capable of utilizing SONET capable ring architecture, which has the ability to route customer traffic in either direction around its ring design thereby assuring that fiber cuts do not interrupt service to customers on our networks. Our networks are also capable of supporting DWDM. Currently, a state-of-the-art network operating system continuously monitors and maintains quality control of networks on a 24-hour basis, alerts us of any degradation or loss of fiber capacity and pinpoints the location of such degradation. This network operating system also enables us to repair or replace impaired fiber without any loss of service. In addition, the monitoring system automatically reroutes traffic in the event of a catastrophic break in the system, enabling us to ensure that our customers obtain continuous service.

Our connectivity services utilize our proprietary ASAP technology to enhance Internet connectivity by monitoring all of our direct and indirect network connections for congestion. ASAP automatically monitors all of our major providers' and peers' direct and indirect connections on a real-time 24-hour basis to identify congestion. If packet loss and congestion is detected on any of the links that directly affect customers' performance, our network engineers

are able to dynamically reroute traffic temporarily away from the problem link. This functionality is particularly important for emerging applications such as audio and video streaming and voice over the Internet.

Franchise, License and Related Agreements

When we decide to build a fiber optic communications network, our corporate development staff seeks to obtain the necessary rights-of-way and governmental authorizations. In some jurisdictions, a construction permit is all that is required. In other jurisdictions, a license agreement, permit or franchise is also required. Such licenses, permits and franchises are generally for a term of limited duration. Where possible, rights-of-way are leased under multi-year agreements with renewal options and are generally non-exclusive. We lease underground conduit and pole space and other rights-of-way from entities such as ILECs, utilities, railroads, IXC's, state highway authorities, local governments and transit authorities. We strive to obtain rights-of-way that afford us the opportunity to expand our communications networks as business develops.

Sales and Marketing

Our sales and marketing strategy includes:

- positioning ourselves as the preferred facilities based provider of broadband communications infrastructure and Internet connectivity services;
- focusing on high dollar volume corporate and government customers;
- emphasizing the cost advantages that will allow us to lease our fiber optic infrastructure at fixed prices which represent potentially significant savings for our large volume carrier and corporate customers relative to their present build or buy alternatives;
- achieve broad market penetration and increase brand recognition for our Internet connectivity services among Internet service providers, Internet content providers and Web hosting companies; and
- Identify opportunities to cross-sell our Internet connectivity services to our complementary infrastructure customer base.

We also believe that communications carrier and corporate and government customers will be attracted to our dark fiber product and our unmetered pricing structure. Dark fiber is installed fiber optic cable which is not otherwise carrying a signal originated by the service provider, such as our company, but which will carry a signal generated by the customer. We intend initially to centralize our sales and marketing efforts on carrier customers through a national sales team and we are currently in the process of hiring additional sales professionals to focus on these customers. As we have constructed fiber optic networks in new cities, we have hired sales forces in these areas to target regional corporate, government and to a lesser extent carrier customers and we plan to continue this strategy.

For our Internet connectivity services, we have developed a two-tiered sales strategy to target leading Internet service providers, Internet content providers and Web hosting companies through direct sales and channel relationships. We maintain a direct sales force of highly trained individuals in San Jose, California, New York, New York and Vienna, Virginia. Our sales force is supported by our sales engineers and, in many circumstances, by our senior management. We are also seeking to develop relationships with potential channel partners including hardware vendors, value added resellers, system integrators, application hosting and Web hosting companies in order to leverage their sales organizations.

Competition

Fiber optic systems are currently under construction both locally and nationally. In New York City, for example, several franchisees have been granted the right to install and operate a telecommunications network within the city. Development of fiber optic networks is also continuing on a national scale. The construction of these networks enables their owners to lease access to their networks to other communications carriers or large corporate or government customers seeking high bandwidth capacity, without these customers having to incur costly expenditures associated with building networks of their own. Alternatively, some network owners may choose to use their infrastructure to provide switched voice and data services, competing directly with ILECs and IXC's. Currently, we do not provide such services or plan to provide such services.

In the cities where we plan to deploy fiber optic communications networks, we face significant competition from the ILECs, which currently dominate their local communications markets. We also face competition from CLECs and other potential competitors in these markets and will face competition in the cities in which we plan to build our networks. Many of our competitors have financial, management and other resources substantially greater than ours, as well as other competitive advantages over us, including established reputations in the communications market.

Various communications carriers already own fiber optic cables as part of their communications networks. Accordingly, each of these carriers could, and some do, compete directly with us in the market for leasing fiber capacity. In addition, although CLECs generally provide a wider array of services to their customers than we presently provide to our customers, CLECs nevertheless represent an alternative means by which our potential customer could obtain direct access to an IXC POP or other site of the customer's choosing. Thus, CLECs could compete with us. In November 1999, the Federal Communications Commission (the "FCC") ordered ILECs to provide nondiscriminatory access to their dark fiber to other telecommunications services providers. This will compete with us.

Some communications carriers and local cable companies have extensive networks in place that could be upgraded to fiber optic cable, as well as numerous personnel and substantial resources to undertake the requisite construction to so equip their networks. To the extent that communications carriers and local cable companies decide to equip their networks with fiber optic cable, they are potential direct competitors provided that these competitors are willing to offer this capacity to all of their customers.

We believe that as competition in the local exchange market develops, a fundamental division between the needs of corporate, governmental and institutional end users and residential end users will drive the creation of differentiated communications services and service providers. We believe that the CLECs, IXCs, ISPs, wireless carriers and corporate and government customers on which we focus will have distinct requirements, including maximum reliability, consistent high quality transmissions, capacity for high-speed data transmissions, diverse routing and responsive customer service. We believe that we will be able to satisfy the needs of such customers.

Our Internet connectivity services business is intensely competitive. There are few substantial barriers to entering the co-location service business, and we expect that we will face additional competition from existing competitors and new market entrants in the future. We believe that participants in this market must grow rapidly and achieve a significant presence in the market in order to compete effectively. We believe that the principal competitive factors in this market are uncongested connectivity, quality of facilities, level of customer service, price, the financial stability and credibility of the provider, brand name and the availability of network management tools. AboveNet might not have the resources or expertise to compete successfully in the future. Our current and potential competitors in this market include:

- providers of co-location services, such as Exodus Communications, Inc., Frontier Corporation, which was acquired by Global Crossing Ltd., Hiway Technologies, Inc., which was acquired by Verio Inc., and Globix Corporation;
- national and regional ISPs, such as Concentric Network Corporation, PSINet, Inc., MCI WorldCom and certain subsidiaries of GTE Corporation;
- global, regional and local telecommunications companies, such as Sprint, MCI WorldCom and Regional Bell Operating Companies, some of whom supply capacity to AboveNet; and
- large information technology outsourcing firms, such as International Business Machines Corporation and Electronic Data Systems.

Regulation

As a provider of communications facilities, we are subject to varying degrees of regulation in each of the jurisdictions in which we operate. In the United States, some aspects of our services are regulated by the FCC and various state regulatory bodies. In some local jurisdictions, we must obtain approval to operate or construct our networks. In other countries where we operate we may also be subject to regulations by the agencies having jurisdiction over the provision of telecommunications services.

Federal

In the United States, federal telecommunications law directly offer two types of services -- the leasing of dark fiber and the provision -- that are subject to varying degrees of regulation by the FCC pursuant of 1934, as amended, by the Telecommunications Act of 1996 (the "Communications Act").

The Communications Act imposes legal requirements on "common carriers of interstate or foreign communication by wire or radio" and on "telecommunication common carriers, are providers of telecommunications services, which offer the offering of telecommunications for a fee "directly to the public" or to the public, subject to standardized rates, terms, and conditions.

Dark Fiber Leasing. We believe that we are not a "telecommunications carrier" and therefore that our dark fiber offerings are not subject to the requirements applicable to such carriers. First, the FCC has said that leasing of dark fiber is a "service" that is subject to FCC regulation. The FCC considers dark fiber leasing to be a "communication by wire or radio" or the "transmission" of "information" which describes the leasing of dark fiber facilities. Second, we do not offer dark fiber on a *i.e.*, to all potential users on an indiscriminate basis. Instead, we enter into agreements on a case-by-case basis with prospective lessees of our dark fiber facilities to determine whether we have a potential lessee. Our dark fiber offerings should therefore not be subject to the common carrier provisions of the Communications Act.

If our offering of dark fiber facilities were deemed to constitute such leases to end users (but not to other telecommunication carriers on a carrier basis, would become subject to assessment for the FCC's Universal Service Fund. The FCC's assessment of the impact of such facilities on the universal availability of basic telecommunications services at affordable rates was announced that the rate of assessment will be approximately 5.88% of gross revenues in the fourth quarter of 2000. On July 30, 1999, the U.S. Court of Appeals for the Fifth Circuit determined that assessments must be limited to interstate revenues. We are currently reviewing the rate of assessment, or what rates of assessment will apply in future years, and the impact of state commissions for state universal service programs.

Transmission Services. With respect to our offering of telecommunication services as a common carrier, offering such transmission services to all potential customers, subject to the regulatory requirements applicable to common carriers and to us, we will be required, with respect to our transmission services, to (1) provide service to all reasonable request; (2) charge rates and adopt practices, classifications and (3) avoid unreasonable discrimination in charges, practices, regulations and rules required to file tariffs setting forth the rates for our services. Under current FCC rules, we should not impose any substantial burdens on us. The FCC has recently defined "access" services (intracity transmission services used to originate and terminate communications) need not file tariffs and may offer such services to customers on a non-revenue basis. Revenues from transmission services will also be subject to FCC Universal Service Fund contributions, above, to the extent that these services are purchased by end users. Since we are subject to comparable assessments, this should not reduce our contribution. Our status as a "telecommunications carrier" will give us certain legal benefits. In particular, we will be able to insist upon access to the existing telecommunications fiber-optic networks with incumbent local exchange carriers central to the Telecommunications Act. ILECs must, among other things: (i) allow interconnection with us on terms and conditions of service equal in quality to that provided to others, (ii) provide unbundled access to their poles, ducts, conduits and other rights-of-way.

ILECs must also provide "physical collocation" for other telecor is an offering by an ILEC that enables another telecommunications can

maintain and repair its own equipment that is necessary for interconnection or access to the ILEC's network elements. An ILEC is required to allocate reasonable amounts of space to carriers on a first-come first-served basis. If space limitations or practical or technical reasons prohibit physical collocation, an ILEC must offer "virtual collocation," by which the other carrier may specify ILEC equipment to be dedicated to its use and electronically monitor and control communications terminating in such equipment. We intend, in some instances, to collocate portions of our network on the premises of certain ILECs. Our ability to do this on a cost-effective basis will depend on the rates, terms and conditions established for collocation, which will be established by state regulators in arbitration proceedings and therefore may vary from one state to the next.

The FCC has responsibility under the 1996 Telecom Act's interconnection provisions to determine what elements of an ILEC's network must be provided to competitors on an unbundled basis. The FCC declared dark fiber an unbundled network element under these provisions. The FCC's requirements for unbundling were overturned by the Supreme Court, which ordered the FCC to re-evaluate the standard it uses to determine which network elements need to be unbundled. In response, the FCC recently issued an order affirming all but one of the network elements and also stating for the first time that ILECs must provide access to dark fiber as a separate element. In addition, federal district courts in a number of jurisdictions have interpreted the 1996 Telecom Act to include dark fiber as a network element, which must be unbundled. The FCC decision to treat dark fiber as an unbundled element, as well as these court rulings, could decrease the demand for dark fiber provided by us because our potential customers will be able to obtain dark fiber from ILECs at cost-based rates. In addition, the FCC has announced that state commissions may decide to add network elements to the FCC's list of elements that are required to be unbundled by carriers.

ILECs, CLECs and inter-exchange carriers are subject to other requirements under the Communications Act, the FCC regulations and additional federal telecommunications laws. These requirements may affect our business by virtue of the inter-relationships that exist among us and many of these regulated telecommunications carriers. For example, the FCC recently issued an order requiring, among other things, that access charges (fees charged by ILECs to IXCs for use of local telephone facilities for the origination and termination of long-distance calls) shift in part from being usage driven to a fixed flat cost-based structure. The FCC recently issued an order granting ILECs greater pricing flexibility for their access services (both switched and non-switched), which may permit the ILECs to compete more effectively against some of our service offerings. While it is not possible to predict the precise effect the access charge changes will have on our business or financial condition, the reforms will reduce access charges paid by IXCs, likely making the use of ILEC facilities by IXCs more attractive, which could have a material adverse effect on the use of our fiber optic telecommunications networks by IXCs. Bell Atlantic's proposed investment could subject us to additional regulation by the FCC. Bell Atlantic is an ILEC and pursuant to the Communications Act may not provide long distance service within its geographic region until certain conditions are met. Companies in which an ILEC owns greater than a ten percent ownership interest are subject to the same prohibitions. If such prohibitions applied to us it would have a material adverse effect on our business. For that reason, our agreement with Bell Atlantic prohibits it from owning more than ten percent of us until the long-distance prohibitions no longer apply to Bell Atlantic and its affiliates.

State

The 1996 Telecom Act prohibits state and local governments from enforcing any law, rule or legal requirement that prohibits, or has the effect of prohibiting, any person from providing any interstate or intrastate telecommunications service. Nonetheless, this provision of the 1996 Telecom Act should enable us and our customers to provide telecommunications services in states that previously prohibited competitive entry.

However, states retain jurisdiction, on a competitively neutral basis, under the 1996 Telecom Act to adopt regulations necessary to preserve universal service, protect public safety and welfare, manage public rights of way, ensure the continued quality of communications services and safeguard the rights of consumers.

States continue to determine the rates that ILECs can charge for most of their intrastate services. They are also responsible for mediating and arbitrating ILEC interconnection arrangements with other carriers if voluntary agreements are not reached. Accordingly, state involvement in local telecommunications services is substantial.

Each state (and the District of Columbia, which is treated as a state for the purpose of regulation of telecommunications services) has its own statutory scheme for regulating providers of telecommunications services if they are "common carriers" or "public utilities." As with the federal regulatory scheme, we believe that the offering of dark fiber facilities does not make us of common carrier or public utility so we would not be subject to this type

of regulation in most jurisdictions in which we currently have or plan to construct facilities. Our offering of transmission services (as distinct from dark fiber capacity), however, will likely be subject to regulation in each of these jurisdictions to the extent that these services are offered for intra-state use. Even though our facilities will be physically located in individual states, we anticipate that most customers will use our facilities and services for the purpose of originating and/or terminating interstate and foreign communications. Under current FCC policies, any dedicated transmission service or facility that is used more than 10% of the time for the purpose of inter-state or foreign communication is subject to FCC jurisdiction to the exclusion of any state regulation.

State regulation of the telecommunications industry is changing rapidly, and the regulatory environment varies substantially from state to state. Our subsidiaries are currently authorized to provide intrastate telecommunications services in California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, Washington and have applications pending in Arizona, Louisiana and North Carolina. At present, we do not anticipate that the regulatory requirements to which we will be subject in the states in which we currently intend to operate will have any material adverse effect on our operations. These regulations may require, among other things, that we obtain certification to operate, and that we provide notification of, or obtain authorization for, certain corporate transactions, such as the transaction with Bell Atlantic. In any event, we will incur certain costs to comply with these and other regulatory requirements such as the filing of tariffs, submission of periodic financial and operational reports to regulators, and payment of regulatory fees and assessments, including contributions to state universal service programs. In some jurisdictions, our pricing flexibility for intra-state services may be limited because of regulation, although our direct competitors will be subject to similar restrictions. However, we make no assurances that future regulatory, judicial, or legislative action will not materially adversely affect us.

Bell Atlantic was recently approved by the FCC to provide long distance service in New York on the grounds that it provides nondiscriminatory access and interconnection to its network facilities for the network facilities of one or more unaffiliated competing providers of telecommunications services. In conjunction with the March 6, 2000 investment in us, Bell Atlantic became a significant customer of ours.

Local

In addition to federal and state laws, local governments exercise legal authority that affects our business. For example, local governments, such as the City of New York, typically retain the ability to manage public rights-of-way, subject to the limitation that local governments may not prohibit persons from providing telecommunications services and local governments may not treat telecommunication service providers in a discriminatory manner. Because of the need to obtain approvals, local authorities affect the timing and costs associated with our use of public rights-of-way. In addition, some local authorities must approve or be notified of certain corporate transactions, such as the Bell Atlantic transaction. These regulations may have an adverse effect on our business.

Federal Regulation of International Service

Various regulatory requirements and limitations also will influence our business as we enter the market for international telecommunications service. We have entered into a 50/50 joint venture, ION, with a subsidiary of Racal that contemplates jointly acquiring and selling international, facilities-based telecommunications capacity between the U.S. and the United Kingdom and possibly between the U.S. and other markets. ION is a U.S. international common carrier subject to U.S. regulation under Title II of the Communications Act, and, we are also a U.S. international common carrier subject to the same regulations. Under current FCC rules, international carriers that do not exercise market power and that are not affiliated with dominant foreign carriers (carriers possessing market power in their local markets) are subject to relatively relaxed U.S. regulation as nondominant international carriers. As a non-dominant common carrier, ION and we are subject to, among other policies, the common carrier obligation of nondiscrimination. In addition, FCC rules prohibit U.S. carriers from bargaining for special concessions from certain foreign partners. ION and we are required, under Sections 214 and 203 of the Communications Act to obtain authorization and file an international service tariff containing rates, terms and conditions prior to initiating service. As a nondominant carrier, ION and we are eligible to seek "global" authorization under Section 214 to operate as facilities-based and/or resale carrier. International carriers are also subject to certain annual fees and filing requirements, such as the requirement to file contracts with other carriers, including foreign carrier agreements, and

reports setting forth international circuit, traffic and revenue data. Failure to obtain an appropriate U.S. license for international service or the revocation of a license could materially adversely affect our future operations.

Until recently, international common carriers were also required to comply with the FCC's International Settlements Policy which defines the permissible boundaries for U.S. carriers and their foreign correspondents to settle the cost of terminating each other's traffic over their respective networks. The FCC, however, recently decided that it is no longer necessary to apply the International Settlement Policy rules to U.S. carrier arrangements with non-dominant foreign carriers and with arrangements with all foreign carriers in competitive foreign markets. Since the U.S.-UK route has been declared competitive by the FCC, ION and we will not have to comply with the International Settlement Policy.

The FCC has also made significant changes to other aspects of its international regulatory regime that facilitate our international operations. For example, it has approved the provisions of switched services over private lines ("ISR") interconnected with the public switched network between the United States and 22 other countries, including the UK and Germany. Recently, the FCC took steps to streamline the application process for authority to provide international services, relaxing further the rules for almost all international services to almost all countries (with China, Taiwan, Russia, Saudi Arabia, the notable exceptions). The FCC continues to refine its international service rules to promote competition, reflect and encourage liberalization in foreign countries, and reduce accounting rates toward cost. We are unable to predict how the FCC will resolve the various pending international policy issues and the effect of such resolutions on us.

Regulation of International Operations

Our international services are also subject to regulation in other countries where we operate. Such regulation, as well as policies and regulations on the European Union level, may impose separate licensing, service and other conditions on our international service operations, and these requirements may have a material adverse effect on our ability to operate. In addition to our joint venture, ION, we have entered into a joint venture with Carrier 1 and Viatel to develop a fiber network linking Germany's main cities. We also have an agreement with Viatel to use Viatel's network in France, Germany, the UK and the Netherlands. The following discussion is intended to provide a general outline of certain regulations and current regulatory posture in certain foreign jurisdictions in which we currently operate or intend to operate, and is not intended as a comprehensive discussion of such regulations or regulatory posture. Local laws and regulations differ significantly among these jurisdictions, and, within such jurisdictions, the interpretation and enforcement of such laws and regulations can be unpredictable.

The European Union

The European Union (the "EU") was established by the Treaty of Rome and subsequent treaties. EU member states are required to implement directives issued by the European Commission (the "EC") and the European Council by passing national legislation. The EC and European Council have issued a number of key directives establishing basic principles for the liberalization of the EU telecommunications market. This basic framework has been advanced by a series of harmonization directives, which include the so-called Open Network Provision directives and the Licensing Directive of April 1997 and the Interconnection Directive of June 1997, which address the procedures for granting license authorizations and conditions applicable to such licenses and the interconnection of networks and the interoperability of services as well as the achievement of universal service. The Licensing Directive sets out framework rules for the procedures associated with the granting of national authorizations for the provision of telecommunications services and for the establishment or operation of any infrastructure for the provision of telecommunications services. It distinguishes between "general authorizations," which should normally be easier to obtain since they do not require an explicit decision by the national regulatory authority, and "individual licenses." EU member states may impose individual license requirements for the establishment and operation of public telecommunications networks and for the provision of voice telephony, among other things. Consequently, our operations in those EU member states comprising our European Network and our proposed operations in general, require our local operating subsidiaries to obtain individual licenses rather than operate under a general authorization. EU law permits member states to establish universal service funds and seek contributions from licensed operators. Each of the EU member states in which we currently conduct our business have different regulatory regimes and such differences are expected to continue. Licensing requirements and requirements to obtain necessary approvals vary considerably from country to country.

On November 10, 1999, the EC published a consultation paper called "Towards a new framework for Electronic Communications infrastructure and associated services". This communication advocates simplification of the existing package of European telecommunications legislation, greater reliance on competition rules and devolving more interpretation and enforcement functions to national regulatory authorities. It also recommends a move away from individual licenses to general authorizations. The communication is part of the EC's ongoing 1999 review of telecommunications European legislation. The proposals, if implemented, may make it easier for us to operate under general authorizations rather than obtaining individual licenses in each of the EU member states comprising our European Network.

In a number of European jurisdictions, the standard licenses authorizing the operation of telecommunications networks and the provision of services over such networks assume that the licensee is a vertically integrated operator, running its own infrastructure and providing services to subscribers over such infrastructure. The impact of such licenses on operators that provide infrastructure alone is unclear in a number of European jurisdictions.

Austria

The Telecommunications Act (Telekommunikationsgesetz or TKG) which came into force on August 1, 1997 establishes the basic regulatory framework for the telecommunications sector. It was enacted to prepare the market for the abolition of the voice telephony monopoly and to fulfil Austria's obligations under the relevant EU liberalisation and harmonisation directives.

The TKG itself only sets out the basic regulatory provisions and leaves it to the competent telecommunications authorities to issue ordinances containing more detailed and specific provisions. So far, the Federal Minister of Science and Transport has issued several ordinances.

The TKG provides for two regulatory authorities: the Telekom Control GmbH and the Telekom Control Kommission. The Telekom Control GmbH is responsible for the implementation of basic provisions, such as regulatory tasks and adjudicating complaints regarding fee disputes or quality of service. The Telekom Control Kommission is an independent three-member committee responsible for decisions about matters concerning civil rights. These matters include the issuance, withdrawal, revocation and amendment of licenses, the approval of general business conditions and tariffs of dominant operators, the definition of financial compensation to be paid from and to the universal service fund, the conditions for interconnection in the event of a dispute and decisions regarding failure to comply with the ban on cross-subsidisation.

An individual license issued by the Telekom Control Kommission is required for the public offer of leased lines by means of an owner-operated fixed network. Metromedia Fiber Network Services GmbH ("MFN Austria") will shortly be filing an application for a licence for the provision of leased lines. According to the TKG, such required license shall be granted if the applicant has the necessary technical competence and there is no reason to assume that it will not provide the relevant service in accordance with the license. Further, the financial strength of the applicant, its experience in the telecommunications sector and its expertise shall be taken into consideration.

Operators of public telecommunications networks have the right to negotiate interconnection with other operators. The framework for this interconnection is set out in the TKG and two ordinances, the "Zusammenschaltungsverordnung" (interconnection ordinance) and the "Numerierungsverordnung" (numbering ordinance). Additional principles for interconnection have been set out by the Kommission in several decisions.

Belgium

The Belgian Telecommunications Act of March 21, 1991 (the "Belgian Act"), as amended, provides for the licensing and regulatory framework for telecommunications activities in Belgium. Under the Belgian Act, voice telephony was liberalized as of January 1, 1998. The Belgian Act is implemented by a number of Royal Decrees. These cover, among other things, licensing procedure, license fees, interconnection, universal service, number portability, mobile telecommunication services and mediation of conflicts between operators.

Licenses in Belgium are granted by the Minister for Telecommunications, upon the recommendation of the national regulator, the Belgian Institute for Post and Telecommunications or BIPT. Under the Belgian regulatory schemes, there are two basic types of licenses: a voice telephony license (service license) and an infrastructure license (public network license). Other licenses are specific to mobile terrestrial services, mobile satellite services and so forth. Other services, such as the leasing of leased lines, are subject to a prior notification obligation to the BIPT.

A services license allows the licensee to offer voice telephony services to the public, independent of the infrastructure used. An infrastructure license allows the licensee to build and operate a network and allow the use of that network for public voice telephony services (a "public" network). Only an infrastructure license provides the licensee with certain rights of way over public property. The provision of dark fiber (owned but not-self-operated infrastructure) does not require an infrastructure license.

Our Belgian subsidiary, Metromedia Fiber Network Belgium BVBA/SPRL, will apply for an infrastructure license in the near future.

A licensed operator of a public network will have the right, but also the obligation, to negotiate interconnection with other operators. For its interconnection with Belgacom, the Belgian incumbent operator, the interconnection rates are fixed in the BRIO 2000 (the Belgacom Reference Interconnect Offer for the year 2000). A BRIO is negotiated each year among Belgacom, the industry and the BIPT and is subject to regulatory approval. Interconnection rates with other operators are subject to commercial agreement.

Licensed operators are under an obligation to present their standard terms and conditions with regard to the provision of telecommunication services to the public to the regulator, who may not accept these or suggest modifications. Licensed operators are also subject to certain universal service financing obligations.

France

In July 1996, France enacted legislation providing for the liberalization of all telecommunications activities by January 1, 1998. The establishment and operation of public telecommunications networks and the provision of voice telephony services to the public are subject to individual licenses granted by the Minister in charge of telecommunications upon recommendation of France's independent regulatory authority, the Autorité de Régulation des Télécommunications ("ART").

The regulation of telecommunication services is set out in article L34-1 of the French Post and Telecommunications Code ("PTC"), which requires a license to be issued for "the commercial provision to the public of a service consisting of the conveyance of direct, real-time voice telephony between public switched telephone networks for mobile and fixed users."

In order to own and control transmission infrastructure in France, and benefit from rights of ways, a carrier must obtain a network license under article L33-1 of the PTC. On October 7, 1999, Metromedia Fiber Network France SAS ("MFN France") was granted an L 33-1 license to be a public telecommunications network operator. This license enables MFN France to build a telecommunications network in the following French regions: Alsace, Champagne-Ardenne, Ile de France, Lorraine, Nord - Pas de Calais and Picardie. The license is granted for 15 years and may not be freely assigned.

MFN France is subject to the requirements in the operation of its public telecommunications network, as set forth in the schedule of conditions attached to the license.

Local authorities are under the obligation to grant authorizations for public occupancy to licensed telecommunication operators. MFN France is therefore entitled by law to obtain rights of way on public properties to build its network. However, such authorizations may contain restrictions relating to, among other things, the location, the coordination of works and operations in consideration of public traffic and maintenance of the roads. In consideration for the right to use the public property, MFN France will be required to pay annual fees to such local authorities. The right to occupy the public domain is precarious and is granted to telecommunication operators in consideration of the person or entity to which the telecommunication license is granted. MFN France will also benefit from statutory easements on private properties.

MFN France is entitled to interconnection with France Télécom. France differentiates between interconnection for public telecommunications network operators, holding a L33.1 license, and voice telephony service providers, holding a L34.1 license. The 2000 interconnection tariffs of France Telecom, which have been officially approved by ART, provide different interconnection rates for public telecommunications network operators and for voice telephony service providers.

Germany

The German Telecommunications Act of July 25, 1996 (the "German Telecommunications Act") liberalized all telecommunications activities. Under the German Telecommunications Act, voice telephony was

liberalized as of January 1, 1998. The German Telecommunications Act has been complemented by several Ordinances. The most significant Ordinances concern license fees, rate regulation, interconnection, universal service, frequencies and customer protection. Under the German regulatory scheme, licenses can be granted within four license classes. A license is required for operation of transmission lines that extend beyond the limits of a property and that are used to provide telecommunications services for the general public. The licenses required for the operation of transmission lines are divided into three infrastructure license classes: mobile telecommunications (license class 1); satellite (license class 2); and telecommunications services for the general public (license class 3). The provision of dark fiber does not require a license. Beside the infrastructure licenses, an additional license is required for provision of voice telephony services on the basis of self-operated telecommunications networks (license class 4). A class 4 license does not include the right to operate transmission lines. Metromedia Fiber Network GmbH obtained a class 3 license for the whole territory of Germany on October 20, 1999.

According to the License Fees Ordinance, a nationwide class 4 license costs a one-time fee of DM 3,000,000 (approximately \$1.5 million at December 31, 1999). A nationwide territorial class 3 license costs DM 10,600,000 (approximately \$5.5 million at December 31, 1999). The Administrative Court of Cologne held in a preliminary ruling that there is a high probability that the license fees are excessive and that therefore the Ordinance might be void. The Upper Administrative Court of Northrhine-Westfalia, however, did not agree with these doubts when it received a complaint from the Regulierungsbehörde für Telekommunikation und Post (the "RegTP"). Metromedia Fiber Network GmbH has received license fee orders in the total amount of DM 10,600,000. Metromedia Fiber Network GmbH has challenged these license fee orders before the Administrative Court. The legal proceedings are currently at an early stage and we do not know when the courts will reach a decision. Since the action does not suspend the obligation to pay the fees, Metromedia Fiber Network GmbH must pay the fees. If the administrative court action is successful, the sum paid or a portion thereof will be refunded.

Licensees that operate transmission lines crossing the boundary of a property have the right to install transmission lines on, in and above public roads, squares, bridges and public waterways without payment; however, when installing transmission lines a planning agreement must be obtained from the relevant authorities. Metromedia Fiber Network GmbH has concluded framework agreements with the cities of Frankfurt, Stuttgart, Cologne and Munich on the conditions and procedures for obtaining the necessary planning agreements with the city authorities.

The German Telecommunications Act provides that the operators of public telecommunications networks are under the obligation to interconnect and have a right to request interconnection from other operators. This right and the obligation only apply to operators of public telecommunications networks. According to the Regulatory Authority, a public telecommunications network consists of at least one switch and three transmission lines and is the basis for the provision of telecommunications services to the public. Since Metromedia Fiber Network GmbH does not operate any switching equipment in Germany and does not intend to do so, the right and the obligation do not apply to Metromedia Fiber Network GmbH.

Licensed operators are under an obligation to present their standard terms and conditions (with regard to the provision of telecommunications services for the public) to the RegTP. The RegTP may, based upon specified criteria, decide not to accept these terms and conditions. Metromedia Fiber Network GmbH may become subject to universal service financing obligations. Currently, it is unlikely that the universal service financing system will be implemented in Germany in the foreseeable future. These obligations do not apply as far as the provision of mere dark fiber is concerned.

Italy

Under Presidential Decree No. 318 of September 19, 1997 on the "Regulation for the implementation of European Directives in the telecommunications field" (the "Italian Telecommunications Act") and Ministerial Decree of November 25, 1997 on individual licenses, an individual license is required, inter alia, for (i) the provision of voice telephony services, (ii) the establishment and provision of public telecommunications networks, and (iii) the establishment of a public network in order to provide voice telephony services on such a network (so-called "combined" license). The combined license is intended to expedite the administrative licensing process for any facility-based operator, but it does not allow the provision (e.g., the lease to third parties) of the operator's network.

On January 21, 2000, Metromedia Fiber Network Italia S.r.l. ("MFN Italy") filed with the Italian Telecommunications Regulatory Authority (the "ITRA") an individual license for the establishment and provision of public telecommunications networks in the Milan area (the "Network License"). Once granted, the Network License will entitle MFN Italy to establish and provide its network in the Milan area.

In addition, in order to dig and build on public land, network licensees must previously obtain ad hoc rights of way from the relevant municipal authorities. Such rights of way are generally granted in the form of concessions. In this respect, the Italian Telecommunications Act provides that the public authorities in charge of public property management may not discriminate among telecommunications operators in connection with the granting of rights of way for the installation of public telecommunications networks. The ad hoc concession is not required for the installation of "backbones", as these will be defined by the ITRA.

Telecommunications operators belonging to defined categories have the right to negotiate interconnection with any telecommunications operator within the same categories. Accordingly, once MFN Italy obtains the Network License, it will be entitled to negotiate interconnection with other operators (including the incumbent operator, Telecom Italia S.p.A.)

Under Ministerial Decree of April 23, 1998 on interconnection and network access (the "Interconnection Decree"), the telecommunications operators mentioned above must enter into interconnection agreements within 45 days from the beginning of the relevant negotiations. If there is no agreement between the parties by such deadline, the telecommunications operators involved must transmit to the ITRA the scheme of the agreement, highlighting those parts on which they were unable to find a mutually acceptable solution. The ITRA must resolve interconnection disputes within 90 days from notification of the dispute and, in the meantime, it may also issue temporary restraining orders.

The telecommunications operators mentioned above and notified by the ITRA as having significant market power with respect to the interconnection (i.e., currently Telecom Italia S.p.A., Telecom Italia Mobile S.p.A. and Omnitel Pronto Italia S.p.A.) must apply non-discriminatory, objective, transparent and cost-oriented interconnection prices.

The Netherlands

The Telecommunications Act of 1998 (the "Dutch TA") provides a licensing and regulatory framework for telecommunications activities in the Netherlands. The Secretary of State at the Ministry of Transport, Public Works and Water Management (the "Secretary of Transport") is responsible for granting individual licenses for use of frequencies under the Dutch TA, for enforcing the terms of such licenses and for overseeing telecommunications policy, aided principally by the Directorate General of Telecommunications and Post and the Radio Communications Agency. The Independent Authority for Post and Telecommunications ("OPTA") is responsible, among other things, for performing registrations, issuing numbers, regulating interconnection rights and obligations, adjudicating interconnection disputes, and generally enforcing the obligations under the Dutch TA in respect of registered parties. Both Metromedia Fiber Network B.V. ("MFN BV") and Metromedia Fiber Network ICN B.V. ("MFN ICN BV") have been registered with OPTA as providers of public telecommunications networks as of July 1999. Under these registrations, MFN BV and MFN ICN BV are authorized to construct and publicly offer telecommunications networks, which include dark fiber. As registered parties, both MFN BV and MFN ICN BV are granted statutory rights of way over public land.

Any provider of a public telecommunications network or of public telecommunications services has the right to negotiate interconnection as well as a corresponding obligation to negotiate interconnection with any other such provider. The terms, conditions and charges to be applied to interconnection between operators who do not have significant market power are not specifically regulated and are therefore subject to commercial agreement. All the aforementioned providers are eligible to benefit from the terms and conditions and charges which fixed-line operators with significant market power are obliged to offer by an interconnection directive. In the Netherlands, KPN Telecom has significant market power for the provision of fixed networks and services and leased lines.

United Kingdom

The Telecommunications Act of 1984 (the "U.K. Act") provides a licensing and regulatory framework for telecommunications activities in the United Kingdom. The Secretary of State for Trade and Industry at the Department of Trade and Industry (the "Secretary of Trade") is responsible for granting licenses under the U.K.

Act and for overseeing telecommunications policy, while the Director General of Telecommunications (the "Director General") and his office (the Office of Telecommunications ("OFTEL")) are responsible, among other things, for enforcing the terms of such licenses. Both ION and Metromedia Fiber Network UK Limited ("MFN UK") have been granted Public Telecommunication Operator ("PTO") licenses. The PTO license authorizes the operation of and provision of services over the operator's own international facilities as well as an authorization to provide telecommunications services in the United Kingdom.

MFN UK will be used as the operating company in the United Kingdom and has been granted code powers, which gives it statutory rights of way over land, which override private rights.

Any operator who appears on the Annex II list on the OFTEL web-site (www.oftel.gov.uk) has the right to negotiate interconnection as well as a corresponding obligation to negotiate interconnection with any other operator in Annex II. The terms, conditions and charges to be applied to interconnection between operators who do not have significant market power are not specifically regulated and are therefore subject to commercial agreement. All Annex II operators are eligible to benefit from the terms and conditions and charges which fixed-line operators with significant market power are obliged to offer by the Interconnection Directive. In the United Kingdom, British Telecommunications and Kingston Communications have significant market power for the provision of fixed networks and services and leased lines. ION is included in the Annex II list of operators on OFTEL's web-site and therefore has a right coupled with a corresponding obligation to negotiate interconnection with any other operator on the Annex II list. MFN UK is not currently included in the Annex II list but may apply to OFTEL to be included in the list.

Other Countries

In addition to our operations in the above countries, we are also in the process of incorporating or have incorporated local subsidiaries and are applying for licenses in The Czech Republic, Denmark, Hungary, Ireland, Israel, Japan, Spain and Switzerland.

Employees

As of December 31, 1999, we employed 608 people, including 350 in engineering and construction, 163 in sales and marketing and 95 in administration. Our employees are not represented by any labor union. We consider our relationship with employees to be good.

Item 2. Properties

Our principal properties currently are the fiber optic cable in place and its component assets. We own substantially all of the communications equipment required for our business. Our installed fiber optic cable is laid under the various rights-of-way held by us. Our other fixed assets are located at various leased locations in the geographic areas that we serve. Our executive and administrative offices are located at our principal office at One North Lexington Avenue, White Plains, New York. We lease this space (currently approximately 29,000 square feet) under an agreement that expires in March 2003. We lease additional office or operation space in many of the markets we are building out our network. Such additional space ranges from 1,000 to 10,000 square feet under agreements that expire within the next three to ten years.

AboveNet's executive and administrative offices are located at 50 West San Fernando Street, San Jose, California. We lease this space (approximately 19,850 square feet) under an agreement that expires in February 2008. PAIX's executive and administrative offices are located at 285 Hamilton Avenue, Palo Alto, California (approximately 5,130 square feet) under an agreement that expires in January 2007. In addition, AboveNet and Palo Alto Internet Exchange lease various co-location facilities in California, Virginia and New York that range from 10,000 to 29,000 square feet under agreements that expire within the next 10 to 20 years.

Item 3. Legal Proceedings

On or about June 12, 1998, Claudio E. Contardi commenced an action against Peter Sahagen, Sahagen Consulting Group of Florida and the Company in the United States District Court for the Southern District of New York (No. 98 CIV 4140). Mr. Contardi alleges a cause of action for, among other things, breach of a finder's fee agreement entered into between Mr. Sahagen and Mr. Contardi on or about November 14, 1996 and breach of an implied covenant of good faith and fair dealing contained in the finder's fee agreement. Mr. Contardi is seeking, among other things, a number of shares of the Company which we cannot currently ascertain but believe to be approximately

225,000 shares (calculated as of the date on which the complaint was filed without taking into account subsequent stock splits) or damages in an amount which we cannot currently ascertain but believe to be approximately \$4.9 million (calculated as of the date on which the complaint was filed) and all costs and expenses incurred by him in this action. We have filed an answer to the complaint and have raised affirmative defenses. We have moved for summary judgment on the complaint.

In January 2000, Herman Goldsmith and Arnold S. Schickler commenced an action against us, F. Garofalo Electric Co., Inc. and Stephen A. Garofalo in the Supreme Court of the State of New York, County of New York (No. 600163/00) (the "Goldsmith Litigation"). The complaint alleges a cause of action for breach of contract in connection with an alleged "finders agreement" entered into in 1993 between Messrs. Goldsmith and Schickler, on the one hand, and F. Garofalo Electric Co., Inc. and Stephen A. Garofalo, on the other. Plaintiffs seek damages of \$860,627,590.99, plus interest from September 7, 1999, in addition to their costs, expenses and reasonable attorneys' fees.

We intend to vigorously defend both these actions because we believe that we acted appropriately in connection with the matters at issue in these two cases. However, we can make no assurances that we will not determine that the advantages of entering into a settlement outweigh the risk and expense of protracted litigation or that ultimately we will be successful in defending against these allegations. If we are unsuccessful in defending against these allegations, an award of the magnitude being sought in the Goldsmith Litigation would have a material adverse effect on our financial condition or results of operations.

On or about October 20, 1997, Vento & Company of New York (referred to as "VCNY") commenced an action against us, Stephen A. Garofalo, Peter Silverman, the law firm of Silverman, Collura, Chernis & Balzano, P.C., Peter Sahagen, Sahagen Consulting Group of Florida (collectively, the "Sahagen Defendants") and Robert Kramer, Birdie Capital Corp., Lawrence Black, Sterling Capital LLC, Penrush Limited, Needham Capital Group, Arthur Asch, Michael Asch and Ronald Kuzon (the "Kramer Defendants") in the United States District Court for the Southern District of New York (No. 97 CIV 7751) (the "VCNY Litigation"). On or about May 29, 1998, VCNY filed an amended complaint. On or about July 2, 1999, VCNY filed a second amended complaint. In its complaint, as amended, VCNY alleged seven causes of action in connection with its sale of 900,000 shares (not adjusted for subsequent stock splits) of class A common stock to Peter Sahagen and the Kramer Defendants on January 13, 1997. The seven causes of action includes: (i) violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated under such Act; (ii) fraud and fraudulent concealment; (iii) breach of fiduciary duty; (iv) negligent misrepresentation and omission; and (v) breach of contract. VCNY was seeking, among other things, rescission of the stock sale, or alternatively, damages in an amount, which it contended was in excess of \$460 million, together with interest. In March 2000, the parties entered into a settlement agreement. Under our portion of the settlement, we are issuing shares of class A common stock having a value of approximately \$1.9 million. As a result, the action has been dismissed with prejudice.

On June 29, 1999, an alleged stockholder of AboveNet filed a lawsuit, captioned *Kaufman v. Tuan, et al.*, Del. Ch. C.A. No. 17259NC, in the Court of Chancery of the State of Delaware in and for the New Castle County. The plaintiff, who purports to represent a class of all AboveNet stockholders, challenges the terms of the proposed merger between the Company and AboveNet. The complaint names, as defendants, AboveNet, the directors of AboveNet and the Company (as an aider and abettor). The complaint alleges generally that AboveNet's directors breached their fiduciary duty to stockholders of AboveNet, and seeks an injunction against the merger, or, in the alternative, rescission and the recovery of unspecified damages, fees and expenses. AboveNet, the Company and the individual defendants believe the lawsuit is without merit and intend to defend themselves vigorously. AboveNet and the individual director defendants' responses were filed on July 22, 1999. In connection with these responses, a motion to dismiss the complaint in its entirety and a motion to stay discovery pending the outcome of the motion to dismiss were filed by the AboveNet and the individual directors of AboveNet on July 22, 1999. Similar motions to dismiss the complaint and stay discovery were filed by the Company on July 26, 1999. Upon stipulation of the parties, this action was dismissed without prejudice in December 1999.

Four other complaints, which are virtually identical to the complaint in *Kaufman v. Tuan*, have also been filed in the Delaware Court of the Chancery. None of these four complaints have been served. The four actions are captioned *Brosious v. Tuan, et al.*, Del. Ch. C.A. No. 17271NC, *Chong v. Tuan, et al.*, Del. Ch. C.A. No. 17281NC, *Ehlert v. Tuan, et al.*, Del. Ch. C.A. No. 17284NC, *Horn v. Tuan, et al.*, Del. Ch. C.A. No. 17300NC.

In addition, we are subject to various claims and proceedings in the ordinary course of business. Based on information currently available, we believe that none of such current claims, or proceedings, individually or in the aggregate, including the Contardi litigation and the Goldsmith litigation, will have a material adverse effect on our financial condition or results of operations, although we can make no assurances in this regard.

Item 4. Submission of Matters to a Vote of Securities Holders

No matters were submitted to a vote of security holders during the fourth fiscal quarter of the year ended December 31, 1999.

PART II

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters

Market Information. Since October 28, 1997, the Class A Common Stock has been listed and traded on the Nasdaq National Market (the "Nasdaq") under the symbol "MFNX." The following table shows the range of reported high and low closing prices per share of Class A Common Stock for each quarter within the Company's two most recent fiscal years:

<u>1999</u>	<u>High (\$)</u>	<u>Low (\$)</u>
First Quarter	14	8 3/8
Second Quarter	23 3/4	13 11/16
Third Quarter	20 1/8	11
Fourth Quarter	24 9/16	12 1/8
<u>1998</u>	<u>High (\$)</u>	<u>Low (\$)</u>
First Quarter	2 5/8	1
Second Quarter	2 15/16	1 5/8
Third Quarter	4 7/16	2 5/8
Fourth Quarter	8 11/16	3 1/8

The above prices reflect the effect our two-for-one stock splits of our Class A and Class B Common Stock in the form of 100 percent stock dividends to all shareholders completed August 28, 1998, December 22, 1998 and May 19, 1999. Such prices reflect the effect our two-for-one stock split of our Class A and Class B Common Stock with a record date for stockholders of March 14, 2000, which is to be completed on or about April 17, 2000.

Holders. As of March 14, 2000, there were approximately 441 record holders of Class A Common Stock and three record holders of Class B Common Stock. The closing price for the Class A Common Stock on such date was \$91.875 per share as reported on the Nasdaq. The Company is aware that it has a substantial number of additional shareholders who hold their shares through The Depository Trust Company.

On October 28, 1997, in connection with our initial public offering, we approved two share exchanges pursuant to which 153,039,040 shares of the old common stock, par value \$.01 per share, were exchanged for the same number of shares of Class A Common Stock and a total of 134,452 shares of our Series B Convertible Preferred Stock, par value \$.01 per share were exchanged for 68,167,776 shares of our Class B Common Stock. Immediately thereafter, two shareholders converted an aggregate of 629,232 shares of Class B Common Stock into an equivalent number of shares of Class A Common Stock. These exchanges were exempt from registration under the Securities Act of 1933, as amended, by virtue of Section 3(a)(9) thereof.

Dividends. We have never declared or paid any cash dividends on our Class A Common Stock or our Class B Common Stock and do not expect to do so in the foreseeable future. We anticipate that all future earnings, if any, generated from operations will be retained to finance the expansion and continued development of our business. In addition, the terms of the indentures for our senior notes restrict our ability to pay dividends on our shares of common stock. Any future determination with respect to the payment of dividends will be within the sole discretion of our board of directors and will depend upon, among other things, our earnings, capital requirements, the current terms of the indenture governing our 10% senior notes or other then-existing indebtedness, applicable requirements of the Delaware General Corporation Law, general economic conditions and such other factors considered relevant by our board.

We are not currently, and do not expect to become, subject to the registration requirements of the Investment Company Act of 1940.

Metromedia Fiber Network, Inc. & Subsidiaries
Selected Consolidated Financial Data

The selected financial data set forth below for Metromedia Fiber Network for the years ended December 31, 1999, 1998, and 1997 and as of December 31, 1999 and 1998, is derived from, and qualified by reference to, the audited consolidated financial statements included elsewhere herein. The selected financial data set forth below for Metromedia Fiber Network for the years ended December 31, 1996 and 1995 and as of December 31, 1996 and 1995 are derived from our audited consolidated financial statements not included elsewhere herein. The selected financial data set forth below should be read in conjunction with Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations" and Item 8. "Financial Statements and Supplementary Data" included elsewhere herein.

	Fiscal Year ended December 31,				
	1999 (c)	1998	1997	1996	1995
	(in 000's, except per share data)				
Statement of Operations Data					
Revenue	\$ 75,247	\$ 36,436	\$ 2,524	\$ 236	\$ 56
Expenses:					
Cost of sales	49,019	13,937	3,572	699	-
Selling, general and administrative	51,010	14,712	6,303	2,070	3,886
Consulting and employment incentives (a)	397	248	19,218	3,652	-
Settlement agreement	1,932	3,400	-	-	-
Depreciation and amortization	45,965	1,532	757	613	162
Income (loss) from operations	(73,076)	2,607	(27,326)	(6,798)	(3,992)
Interest income (expense), net	(40,256)	1,927	1,067	(3,561)	(327)
(Loss) from joint venture	(1,606)	(146)	-	-	-
Income taxes	-	3,402	-	-	-
Net income (loss)	<u>\$ (114,938)</u>	<u>\$ 986</u>	<u>\$ (26,259)</u>	<u>\$ (10,359)</u>	<u>\$ (4,319)</u>
Net income (loss) applicable to common stockholders per share-basic	\$ (0.28)	\$ 0.00	\$ (0.14)	\$ (0.07)	\$ (0.04)
Net income applicable to common stockholders per share-diluted	N/A	\$ 0.00	N/A	N/A	N/A
Number of shares of common stock assumed outstanding-basic (b)	407,192	373,980	189,788	143,432	99,316
Number of shares of common stock assumed outstanding-diluted (b)	N/A	439,048	N/A	N/A	N/A
As of December 31,					
	1999	1998	1997	1996	1995
	(in 000's)				
Summary Balance Sheet Data					
Current assets	\$ 1,377,465	\$ 665,823	\$ 140,557	\$ 645	\$ 254
Working capital (deficiency)	1,127,945	555,050	133,030	(12,887)	(11,542)
Fiber optic transmission network and related equipment, net	796,684	244,276	24,934	6,369	5,885
Property and equipment, net	9,215	2,716	759	525	468
Total assets	3,959,985	974,417	167,378	7,977	7,077
Long-term debt	1,699,314	672,675	-	-	-
Total liabilities	2,125,309	816,903	17,838	14,835	12,413
Stockholders' equity (deficiency)	1,834,676	157,514	149,540	(6,858)	(5,336)

- (a) Represents value of common stock, warrants and options issued to consultants and officers to provide services to Metromedia Fiber Network.
- (b) Based upon the weighted average shares outstanding after giving retroactive effect to stock splits; see Note 1 to "Notes to Consolidated Financial Statements."
- (c) Includes the impact of adopting FASB Interpretation No. 43

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis relates to our financial condition and our results of operations for the three years ended December 31, 1999. This information should be read in conjunction with the Item 6, "Selected Consolidated Financial Data" and our consolidated Financial Statements and related notes thereto beginning on page F-1.

Statement on Forward-Looking Information

Certain statements in this section are "forward-looking statements." You should read the information under Part I, "Special Note Regarding Forward-Looking Statements" for more information about our presentation of forward-looking information.

General

We provide dedicated fiber optic infrastructure and high-bandwidth Internet connectivity for our communications intensive customers. We are a facilities-based provider of technologically advanced, high-bandwidth, fiber optic communications infrastructure to communications carriers and corporate and government customers in the United States and Europe. Through our acquisition of AboveNet, we also provide "one-hop" connectivity that enables mission-critical Internet applications to thrive, as well as high-bandwidth infrastructure, including managed co-location services.

We currently have operations in, or under construction in, eleven Tier I cities throughout the United States and seven selected international markets. We intend to expand our presence to include approximately 50 Tier I and Tier II markets in the United States and 17 major international markets.

Our existing intra-city networks consist of approximately 514,000 fiber miles covering in excess of 1,000 route miles in the first eleven Tier I cities. We are currently working to expand our existing local intra-city networks in these metropolitan areas, and to construct additional intra-city networks in approximately 40 additional Tier I and Tier II markets in the United States.

Our inter-city network currently consists of approximately 132,000 fiber miles primarily covering the 255 route-mile network that we have built between New York City and Washington, D.C. We have also built or contracted to acquire, (primarily through fiber swaps) a nationwide dark fiber network linking our intra-city networks

In addition to our domestic networks, we intend to expand our international presence to include approximately 17 major markets. In February 1999, we entered into an agreement with Viatel, Inc. and Carner I Holdings, Ltd. to jointly build a dark fiber inter-city network between selected cities throughout Germany. Once completed, the German network will consist of approximately 320,000 fiber miles covering in excess of 1,450 route miles connecting 14 major cities. We have also swapped strands of fiber in the United States for strands of fiber on the Circe network, which connects a number of European markets. In addition to our inter-city networks, we are constructing 16 intra-city networks throughout Europe. Separately, we have also entered into a contract to acquire rights to dark fiber network facilities in Toronto, Canada.

On September 8, 1999, we completed the acquisition of AboveNet. The holders of AboveNet common stock received 2.35 shares of our class A common stock for each share of AboveNet common stock. AboveNet is a leading provider of facilities-based, managed services for customer-owned Web servers and related equipment, known as co-location, and high performance Internet connectivity solutions for electronic commerce and other business critical Internet operations. PAIX, AboveNet's wholly owned subsidiary, serves as a packet switching center for ISPs. PAIX also offers secure, fault-tolerant co-location services to ISPs. The acquisition has been recorded under the purchase method of accounting and AboveNet's results will be included in the results of operations subsequent to the acquisition date. On October 7, 1999, we entered into a securities purchase agreement with Bell Atlantic, under which Bell Atlantic would agree to purchase up to approximately 51.2 million newly issued shares of our class A common stock at a purchase price of \$14.00 per share and a convertible subordinated note of approximately \$975.3 million, which is convertible into shares of our class A common stock at a conversion price of \$17.00 per share. This transaction closed on March 6, 2000. Assuming the issuance of the 51.2 million shares of class A common stock and conversion of the convertible subordinated note, this investment would represent 18.2% of our outstanding shares. Bell Atlantic has also agreed to pay us \$550 million over the next three years in exchange for delivery of fiber optic facilities over the next five years. The proceeds from these two transactions will be used to fund the expansion of our network.

Most of our contracts for the provision of dark fiber are accounted for as operating leases under which we

recognize recurring monthly revenues. For certain other contracts we recognize revenue under the percentage of completion method for the provision of dark fiber. Effective June 30, 1999, the Financial Accounting Standards Board issued FASB Interpretation No. 43, "Real Estate Sales" ("FIN 43"), which requires that sales or leases of integral equipment subsequent to June 30, 1999, be accounted for in accordance with real estate accounting rules. We believe that the staff of the Securities and Exchange Commission requires the classification of dark fiber cables in the ground as integral equipment as defined in FIN 43. Accounting for dark fiber leases as defined by FIN 43 does not change any of the economics of the contracts. It requires us, however, to recognize the revenue from certain leases as operating leases over the term of the contract as opposed to the prior method of recognizing revenue during the period over which we deliver the fiber. As a result, this change in accounting treatment reduces the revenue and income that we recognize in the earlier years of the contract and spreads it out over the life of the contract regardless of when the cash was received or the delivery of the fiber took place.

By way of example, if we entered into an agreement for a 25 year lease for dark fiber with a customer who pays \$100.0 million in cash when the contract is signed, we previously recorded average revenues of \$20.0 million over the 5 years during which we delivered the dark fiber. By contrast, the real estate accounting rules of FIN 43 would require us to recognize revenue of \$4.0 million per year over the 25 year term of the contract, even though we would receive a cash payment of \$100.0 million when the contract is signed.

We implemented this method of accounting for our contracts entered into after June 30, 1999, for which the method is required. Although there was no change to the economics of the contracts or the timing of the cash to be received by the Company, the impact of the change in accounting resulted in the Company recording substantially less revenue between the dates of July 1, 1999 and December 31, 1999 than would have been recorded if this change had not been imposed.

Stock splits. On August 28, 1998, December 22, 1998, and May 19, 1999, we completed two-for-one stock splits of our class A and class B common stock in the form of 100 percent stock dividends to all stockholders of record as of certain specified dates. On March 2, 2000 the company announced a two-for-one stock split of the Company's Class A and Class B Common Stock in the form of a 100 percent stock dividend to all shareholders of record on March 14, 2000. This stock split will be effective on or about April 17, 2000.

All share and per share amounts presented herein give retroactive effect to the three stock splits effected in 1998 and 1999, and to the pending stock split. As of December 31, 1999, adjusted for the effect of the stock dividends, we had 411,116,800 class A common shares outstanding and 67,538,544 class B common shares outstanding.

Results of Operations

Year Ended December 31, 1999 Compared to Year Ended December 31, 1998

Revenues. Revenues for 1999 were \$75.2 million or 107% greater than revenues of \$36.4 million for the same period in 1998. The increase reflected higher revenues associated with commencement of service to an increased total number of customers, as well as revenue recognized related to sales-type leases of portions of our network for contracts entered into before June 30, 1999, and the inclusion of AboveNet's revenue for the period of September 9, 1999 (acquisition date) through December 31, 1999. Revenue recognized in 1999 using the percentage of completion method was \$40.3 million, compared to \$32.8 million in 1998. If not for the impact of the aforementioned accounting change, effective June 30, 1999, the increase in revenues would have been greater.

Cost of Sales. Cost of sales was \$49.0 million for 1999, a 253% increase over cost of sales of \$13.9 million for 1998. Cost of sales increased for 1999 compared with the same period in 1998 due to costs related to the inclusion of AboveNet's operations since the acquisition date, costs associated with the greater number of customers, as well as higher fixed costs associated with the operation and maintenance of our networks. Costs of sales as percentages of revenue for 1999 and 1998 were 65% and 38% respectively, increasing as a result of the higher fixed costs related to the operation and maintenance of the Company's fiber optic network, as well as the higher fixed costs related to our internet connectivity services. Cost of sales in 1999 related to the percentage of completion method was \$10.7 million, compared to \$11.2 million in 1998. Cost of sales was also impacted as a direct result of the aforementioned accounting change, effective June 30, 1999.

Selling, General and Administrative Expenses. Selling, general and administrative expenses increased to \$51.0 million during 1999 from \$14.7 million during 1998, an increase of \$36.3 million, or 247%. The increase in selling, general and administrative expenses resulted primarily from increased overhead to accommodate our network expansion and the acquisition of AboveNet. As a percentage of revenue, selling, general and administrative expenses

increased to 68% of revenue for 1999, from 40% for the comparable period in 1998. Selling, general and administrative expenses as a percentage of revenue were also impacted as a direct result of the aforementioned accounting change, effective June 30, 1999.

Settlement Agreement. We recorded \$1.9 million and \$3.4 million for settlement agreements in 1999 and 1998, respectively.

Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA). For the year ended December 31, 1999 we recognized a loss before interest, taxes, depreciation and amortization of \$27.1 million compared with income before interest, taxes, depreciation and amortization for the year ended December 31, 1998 of \$4.1 million. The change in EBITDA is primarily due to the acquisition of AboveNet and the aforementioned accounting change.

Depreciation and Amortization. We recorded depreciation and amortization of \$46.0 million during 1999 versus \$1.5 million during 1998, an increase of \$44.5 million. The increase in depreciation and amortization expense resulted primarily from amortization of the goodwill relating to the acquisition of AboveNet and increased investment in our completed fiber optic network and additional property and equipment acquired.

Income (Loss) from Operations. For the year ended December 31, 1999, loss from operations was \$73.1 million, a \$75.7 million change over the \$2.6 million income for the comparable period in 1998. The loss was greater as a result of the acquisition of AboveNet and the aforementioned accounting change, effective June 30, 1999.

Interest Income. Interest income was \$32.1 million during 1999 compared with \$8.8 million during the comparable 1998 period, an increase of \$23.3 million or 265%. Interest income increased as a result of the investment of certain of the proceeds from the issuance and sale of our 10% senior notes due in 2008 and 2009.

Interest Expense (Net). Interest expense increased for 1999 to \$72.4 million compared with \$6.9 million during the same period of 1998. The increase in interest expense reflects the issuance and sale of our 10% senior notes due in 2008 and 2009, issued in November 1998 and October 1999, respectively.

Income (Loss) from Joint Ventures. For the year ended December 31, 1999 we recorded a \$1.6 million loss from joint ventures compared with a \$146,000 loss for the year ended December 31, 1998. The increase is attributable to the losses incurred by AboveNet's joint venture investees.

Net Loss. We had net loss of \$114.9 million for 1999, versus net income of \$986,000 for the comparable period of 1998. For the year ended December 31, 1999, the basic net loss per share was \$0.28 versus a basic net income per share of \$0.00 for the same period in 1998. The net losses were primarily attributable to the amortization of goodwill related to the AboveNet acquisition, the results of operations of AboveNet since the date of acquisition, the increase in net interest expense related to the issuance and sale of our 10% senior notes due in 2008 and 2009, issued in November 1998 and October 1999, respectively, and the aforementioned accounting change.

Year Ended December 31, 1998 Compared to Year Ended December 31, 1997

Revenues. Revenues for 1998 were \$36.4 million or 1,356% greater than revenues of \$2.5 million for 1997. The increase in revenue for 1998 versus 1997 reflected higher revenues associated with commencement of service to an increased total number of customers, as well as revenue recognized related to grants of indefeasible rights of use to portions of our network and sales of dark fiber classified as sales type leases. Revenue recognized in 1998 using the percentage of completion method was \$32.8 million. No revenue was recognized in 1997 using the percentage of completion method.

Cost of Sales. Cost of sales was \$13.9 million in 1998, a 286% increase over cost of sales of \$3.6 million in 1997. Cost of sales increased for 1998 as compared to 1997 due to costs associated with the commencement of service to customers, higher fixed costs associated with the operation of our network in service and the allocated costs of the network related to revenue recognized for grants of indefeasible rights of use to portions of our network and sales type leases of portions of our dark fiber classified as capital leases. Costs of sales, as percentages of revenue for 1998 and 1997 were 38% and 142%, respectively, declining as a result of the significant increase in the number of customers and revenues. Cost of sales in 1998 related to the percentage of completion method was \$11.2 million. No cost of sales was incurred in 1997 relating to the percentage of completion method.

Selling, General and Administrative Expenses. Selling, general and administrative expenses for 1998 were \$14.7 million or 133% greater than selling, general and administrative expenses of \$6.3 million during 1997. The increase in selling, general and administrative expenses for 1998 as compared to 1997 resulted primarily from increased overhead to accommodate our network expansion.

Consulting and Employment Incentives Expense. Consulting and employment incentives expense for 1998 were \$0.2 million compared with \$19.2 million for 1997. Consulting and employment incentives expense incurred in 1997 reflects the value of stock options issued to key employees, officers and directors in order to attract or retain their services. For 1998, the amount recorded reflects amortization for the unvested component of options issued in 1997 to key employees.

Settlement Agreement. We recorded \$3.4 million for a settlement agreement in 1998. The amount was recorded in the first quarter of 1998 for the expense associated with the issuance of stock options and payment of cash related to a settlement agreement.

Depreciation and Amortization Expense. Depreciation and amortization expense for 1998 was \$1.5 million or 88% greater than depreciation and amortization expense of \$800,000 during 1997. The increases in depreciation and amortization expense resulted from increased investment in our completed fiber optic network and property and equipment.

Interest Income (expense). Interest income for 1998 was \$8.8 million or 389% greater than interest income of \$1.8 million during 1997. Interest income during 1998 was derived from investment of our excess cash received as proceeds from our initial public offering in October 1997 and the additional cash received in November 1998 from the proceeds of our \$650 million note issuance. Interest expense increased in 1998 to \$6.9 million as compared to \$0.7 million for 1997. The increase in interest expense reflects interest accrued for the senior notes issued in November 1998.

Income (loss) from Joint Venture. We recorded a \$100,000 loss from our 50% share of the ION joint venture's loss for 1998. The loss primarily represents startup costs and operating activities for the joint venture.

Income Taxes. We recorded a provision for income taxes for 1998 in the amount of \$3.4 million. This represents an estimated effective tax rate, for federal and state taxes, of 77.5%.

Net Income (loss). Net income was \$1.0 million for 1998, as compared to a net loss of \$26.3 million for 1997. For 1998, basic net income per share was \$0.00 as compared to a basic net loss per share of \$0.14 for 1997. On a diluted basis, net income per share for 1998 was \$0.00.

The improvements in results for 1998 were primarily attributable to the growth of revenues and the improvements in gross margins, as noted above, as well as the increase in net interest income related to the investment made by Metromedia Company and the funds raised through our initial public offering as compared to net interest expense.

Liquidity and Capital Resources

Our initial public offering, on October 28, 1997, of 145,728,000 shares of class A common stock generated net proceeds of \$133.9 million, after deducting the underwriter's commission and expenses relating to such initial public offering. In addition, on November 25, 1998, we issued and sold 10% Senior Notes due 2008 which generated net proceeds of \$630.0 million. Also, on October 25, 1999, we issued and sold 10% Senior Notes due 2009 which generated net proceeds of \$974.2 million. On October 7, 1999, we entered into a securities purchase agreement with Bell Atlantic, under which Bell Atlantic would purchase shares of our class A common stock and a convertible subordinated note. The agreement closed on March 6, 2000 and generated net proceeds of approximately \$1.7 billion. In addition, Bell Atlantic has agreed to purchase a minimum of \$550 million of fiber optic facilities payable over the next three years.

For the year ended December 31, 1999, our operating activities generated \$59.7 million of cash, compared with \$18.0 million during the comparable period in 1998. The increase in cash provided by operations was primarily due to the increase in advance payments received from customers. For the year ended December 31, 1999, we used \$344.8 million of cash for net investing activities compared with \$126.0 million for 1998. This increase was due primarily to investments in the expansion of our networks and related construction in progress, and the acquisition of dark fiber infrastructure in certain markets in Texas. Offsetting these items was the cash acquired through the AboveNet acquisition. For the year ended December 31, 1999, we had net proceeds of \$986.9 million of cash from financing activities, compared with \$538.6 million in 1998. These amounts are primarily due to the issuance noted above of 10% senior notes in October, 1999 and November, 1998. We anticipate that we will continue to incur net operating losses as we expand and complete our existing networks, construct additional networks and market our services to an expanding customer base. We anticipate spending approximately \$3.4 billion through the year ending December 31, 2001 on the build-out of our fiber optic networks and Internet service exchanges in 50 major markets in the United States and in 17 major international markets. We believe that the net proceeds from the investment by

Bell Atlantic, the net proceeds from the senior notes, cash on hand, certain vendor financing and cash generated by operations (including advance customer payments), will enable us to fully fund the planned build-out of our networks and our other working capital needs through the year ended December 31, 2001. The indentures governing our debt obligations permit us to incur additional indebtedness to finance the engineering, construction, installation, acquisition, lease, development or improvement of telecommunications assets. As a result, we may also consider from time to time private or public sales of additional equity or debt securities, entering into other credit facilities and financings, depending upon market conditions, in order to finance the continued build-out of our network. We cannot assure you that we will be able to successfully consummate any such financing on acceptable terms or at all.

We expect to continue to experience negative cash flows for the foreseeable future. In addition, as part of our acquisition of AboveNet, we recorded approximately \$1.6 billion in goodwill and other intangible assets, which we are amortizing over periods up to twenty years. Accordingly, we expect to report further net operating losses for the foreseeable future.

Year 2000 System Modifications

Year 2000 has had no impact on our processing of date-sensitive information and network systems. The potential for Year 2000 problems is the result of computer programs being written using two digits (rather than four) to define the year 2000, which could result in miscalculations or system failures resulting from recognition of a date using "00" as the year 1900 rather than the year 2000.

The Year 2000 effort has had a nominal cost impact. Such costs have been expensed as incurred, except to the extent such costs have been incurred for the purchase or lease of capital equipment.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

In the normal course of business, the financial position of the Company is routinely subjected to a variety of risks. In addition to the market risk associated with interest movements on the Company's outstanding debt, the Company is subject to other types of risk such as the collectibility of its accounts receivables. The Company's principal long term obligation are its \$650 million 10% senior notes due 2008 and \$1 billion 10% senior notes due 2009, and the convertible subordinated note of approximately \$975.3 million issued to Bell Atlantic in March 2000. The fair value of the long-term debt at December 31, 1999 was \$1.65 billion. A 10% decrease and a 10% increase in the level of interest rates would result in an increase in the fair value of the Company's long term obligation by \$112.6 million and a decrease in the fair value of the Company's long term obligation by \$94.3 million respectively.

The Company has also purchased a portfolio of U.S. government securities, which mature at dates sufficient to provide for payment, in full, of interest on the Company's \$650 million 10% senior notes due 2008 through May 15, 2000. The pledged securities are stated at cost, adjusted for premium amortization and accrued interest. The fair value of the pledged securities approximates its carrying value.

The Company had \$1.2 billion in cash and cash equivalents at December 31, 1999. To the extent the Company's cash and cash equivalents exceed its short-term funding requirements the Company may invest its excess cash and cash equivalents in longer-term high-quality financial instruments. Such investments when made will be subject to changes in interest rates.

Item 8. Financial Statements and Supplementary Data

The response to this item is incorporated by reference to pages F-1 through F-29 and S-1 herein.

Item 9. Changes in and Disagreements With Accountants and Financial Disclosure.

None.

PART III

The information called for by this Part III (Items 10, 11, 12 and 13) is not set forth herein because the Company intends to file with the SEC not later than 120 days after the end of the fiscal year ended December 31, 1999 the Definitive Proxy Statement for the 2000 Annual Meeting of Stockholders to be held on May 16, 2000. Such information to be included in the Definitive Proxy Statement is hereby incorporated into Items 10, 11, 12 and 13 by this reference.

PART IV

Item 14. Exhibits, Financial Statement Schedules and Reports on Form 8-K.

a) 1. Financial Statements:

See Index to Consolidated Financial Statements on Page F-1.

2. Financial Statement Schedules:

Schedule II Valuation and Qualifying Accounts

All other schedules not listed above have been omitted since they are either not applicable or the information is contained elsewhere in the financial statements or the notes thereto, or the amounts are insignificant or immaterial.

b) Current Reports on Form 8-K

1. On June 30, 1999 the Company filed a Form 8-K related to the Company entering into an Agreement and Plan of Merger among the Company, Magellan Acquisition, Inc. and AboveNet Communications Inc dated June 22, 1999.
2. On September 10, 1999 the Company filed a Form 8-K announcing its completion of its merger with AboveNet Communications Inc. on September 8, 1999.
3. On October 14, 1999 the Company filed a Form 8-K/A in connection with the acquisition or disposition of assets Company's in the completion of its merger with AboveNet Communications Inc. pursuant to the Agreement and Plan of Merger.
4. On October 18, 1999 the Company filed a Form 8-K announcing that Bell Atlantic Investments, Inc., a wholly owned subsidiary of Bell Atlantic Corporation had entered into a Securities Purchase Agreement on October 7, 1999 with the Company.
5. On October 26, 1999 the Company filed a Form 8-K/A Amendment No. 2 in connection with the conversion of AboveNet shares into the Company shares in the completion of its merger with AboveNet Communications Inc. pursuant to the Agreement and Plan of Merger.
6. On November 24, 1999 the Company filed a Form 8-K in connection with its completion of its public underwritten registered offerings of \$750 million of its 10% Senior Notes due 2009.

As of the date of the filing of this Annual Report on Form 10-K no proxy materials have been furnished to security holders. Copies of all proxy materials will be sent to the Commission in compliance with its rules.

c) Exhibits

<u>Exhibit Number</u>	<u>Description</u>
3.1	Form of Amended and Restated Certificate of Incorporation of Metromedia Fiber Network, Inc. (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
3.2	Form of Amended and Restated Bylaws of Metromedia Fiber Network, Inc. (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
4.1	Specimen Class A Common Stock Certificate of Metromedia Fiber Network, Inc. (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653))

- 4.2 Indenture, dated as of November 25, 1998, between Metromedia Fiber Network, Inc. and IBJ Whitehall Bank & Trust Company (formerly IBJ Schroder Bank & Trust Company) (incorporated by reference to the Company's Registration Statement on Form S-4 (Registration No. 333-71129)).
- 4.3 Form of 10% Series A Senior Notes due 2008 of Metromedia Fiber Network, Inc. (incorporated by reference to the Company's Registration Statement on Form S-4 (Registration No. 333-71129)).
- 4.4 Form of 10% Series B Senior Notes due 2008 of Metromedia Fiber Network, Inc. (incorporated by reference to the Company's Amendment No. 1 to Registration Statement on Form S-4 (Registration No. 333-71129)).
- 4.5 Indenture, dated as of November 17, 1999, between Metromedia Fiber Network, Inc. and The Bank of New York, as trustee (incorporated by reference to the Company's Current Report on Form 8-K filed November 24, 1999).
- 4.6 Form of 10% Senior Notes due 2009 of Metromedia Fiber Network, Inc. (incorporated by reference to the Company's Current Report on Form 8-K filed on November 24, 1999)
- 10.1 Form of Metromedia Fiber Network, Inc. 1997 Incentive Stock Plan (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.2 Employment Agreement by and between National Fiber Network, Inc. and Stephen A. Garofalo, dated as of February 26, 1997 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.3 Employment Agreement by and between National Fiber Network, Inc. and Howard M. Finkelstein, dated as of April 30, 1997 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.4 Agreement dated as of April 30, 1997, as amended by a Modification Agreement dated as of October, 1997 by and among Metromedia Company, Stuart Subotnick, Arnold Wadler, Silvia Kessel, Stephen A. Garofalo and National Fiber Network, Inc. (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.5 Franchise Agreement between the City of New York and National Fiber Network, Inc., dated as of December 20, 1993 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.6 Conduit Occupancy Agreement by and between New York Telephone Company and National Fiber Network, Inc., dated as of May 1993 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.7 Consulting Agreement between National Fiber Network and Realprop Capital Corporation, dated as of February 1, 1996 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.8 Letter Agreement from National Fiber Network, Inc. to Peter Sahagen, dated February 11, 1997 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.9 Office Lease by and between National Fiber Network, Inc. and 110 East 42nd Street Associates, dated as of March 19, 1997 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.10 Trademark License Agreement by and between Metromedia Company and Metromedia Fiber Network, Inc., dated as of August 14, 1997 (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.11 Fiber Optic Use Agreement between National Fiber Network, Inc. and NextLink New York, L.L.C., dated as of June 3, 1997 (portions of this exhibit are subject to a request to the Securities and Exchange Commission for confidential treatment, and omitted material has been separately filed with the Securities and Exchange Commission) (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).

- 10.12 Amended and Restated Agreement for the Provision of a Fiber Optic Transmission Network, dated as of the Effective Date by and between US ONE Communications of New York, Inc. and National Fiber Network, Inc. (portions of this exhibit are subject to a request to the Securities and Exchange Commission for confidential treatment, and omitted material has been separately filed with the Securities and Exchange Commission) (incorporated by reference to the Company's Registration Statement on Form S-1 (Registration No. 333-33653)).
- 10.13 Fiber Lease and Innerduct Use Agreement by and between Metromedia Fiber Network, Inc. and NextLink Communications, Inc., dated as of February 23, 1998 (portions of this exhibit are subject to a request to the Securities and Exchange Commission for confidential treatment, and omitted material has been separately filed with the Securities and Exchange Commission) (incorporated by reference to the Company's 1997 Annual Report on Form 10-K (File No.000-23269)).
- 10.14 Amendment No. 1 to Fiber Lease and Innerduct Use Agreement by and between Metromedia Fiber Network, Inc. and NextLink Communications, Inc., made and entered into as of March 4, 1998 (portions of this exhibit are subject to a request to the Securities and Exchange Commission for confidential treatment, and omitted material has been separately filed with the Securities and Exchange Commission) (incorporated by reference to the Company's 1997 Annual Report on Form 10-K (File No. 000-23269)).
- 10.15 Agreement of Lease by and between Connecticut General Life Insurance Company and Metromedia Fiber Network Services, Inc., dated as of March 9, 1998 (incorporated by reference to the Company's 1997 Annual Report on Form 10-K (File No. 000-23269)).
- 10.16 Purchase Agreement, dated November 20, 1998 among Metromedia Fiber Network, Inc., Salomon Smith Barney, Inc., Chase Securities, Inc., Deutsche Bank Securities Inc. and Donaldson Lufkin & Jenrette Securities Corporation (incorporated by reference to the Company's Registration Statement on Form S-4 (Registration No. 333-71129)).
- 10.17 Registration Rights Agreement, dated as of November 25, 1998 among Metromedia Fiber Network, Inc., Salomon Smith Barney, Inc., Chase Securities, Inc., Deutsche Bank Securities Inc. and Donaldson Lufkin & Jenrette Securities Corporation (incorporated by reference to the Company's Registration Statement on Form S-4 (Registration No. 333-71129)).
- 10.18 Security Agreement, dated as of November 25, 1998, between Metromedia Fiber Network, Inc. and IBJ Whitehall Bank & Trust Company (incorporated by reference to the Company's Registration Statement on Form S-4 (Registration No. 333-71129)).
- 10.19 Employment Agreement by and between Metromedia Fiber Network, Inc. and Vincent A. Galluccio, dated as of August 31, 1998 (incorporated by reference to the Company's Amendment No. 1 to Registration Statement on Form S-4 (Registration No. 333-71129)).
- 10.20 Employment Agreement by and between Metromedia Fiber Network, Inc. and Gerard Benedetto, dated as of August 31, 1998 (incorporated by reference to the Company's Amendment No. 1 to Registration Statement on Form S-4 (Registration No. 333-71129)).
- 10.21 Employment Agreement by and between Metromedia Fiber Network, Inc. and Nicholas M. Tanzi, dated as of August 31, 1998 (incorporated by reference to the Company's Amendment No. 1 to Registration Statement on Form S-4 (Registration No. 333-71129)).
- 10.22* Franchise Agreement between the City of New York and National Fiber Network, Inc., dated as of December 20, 1993.
- 21.1* List of Subsidiaries of Metromedia Fiber Network, Inc.
- 23.1* Consent of Ernst & Young LLP.
- 24.1 Power of Attorney from officers and directors.
- 27.1* Financial Data Schedule.

* Filed herewith

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

METROMEDIA FIBER NETWORK, INC.

By: /s/ Stephen A. Garofalo
 Stephen A. Garofalo
Chairman and Chief Executive Officer

Dated: March 17, 2000

We, the undersigned officers and directors of Metromedia Fiber Network, Inc., hereby severally constitute Arnold L. Wadler, Howard M. Finkelstein and Gerard Benedetto, and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, any and all reports (including any amendments thereto), with all exhibits thereto and any and all documents in connection therewith, and generally do all such things in our name and on our behalf in such capacities to enable Metromedia Fiber Network, Inc. to comply with the applicable provisions of the Securities Exchange Act of 1934, as amended, and all requirements of the Securities and Exchange Commission, and we hereby ratify and confirm our signatures as they may be signed by our said attorneys, or either of them, to any and all such reports (including any amendments thereto) and other documents in connection therewith.

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange of 1934, as amended, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Signatures</u>	<u>Title or Capacities</u>	<u>Date</u>
<u>/s/ Stephen A. Garofalo</u> Stephen A. Garofalo	Chairman of the Board and Chief Executive Officer	March 17, 2000
<u>/s/ Howard M. Finkelstein</u> Howard M. Finkelstein	Vice Chairman of the Board and Director	March 17, 2000
<u>/s/ Nicholas M. Tanzi</u> Nicholas M. Tanzi	President and Chief Operating Officer	March 17, 2000
<u>/s/ Gerard Benedetto</u> Gerard Benedetto	Senior Vice President, Chief Financial Officer and Chief Accounting Officer	March 17, 2000
<u>/s/ Silvia Kessel</u> Silvia Kessel	Executive Vice President and Director	March 17, 2000
<u>/s/ Arnold L. Wadler</u> Arnold L. Wadler	Executive Vice President, General Counsel, Secretary and Director	March 17, 2000
<u>/s/ Sherman Tuan</u> Sherman Tuan	Chief Executive Officer of AboveNet and Director	March 17, 2000

<u>Signatures</u>	<u>Title or Capacities</u>	<u>Date</u>
<u>/s/ David Rand</u> David Rand	Chief Technology Officer and Director	March 17, 2000
<u>/s/ Vincent A. Galluccio</u> Vincent A. Galluccio	Senior Vice President and Director	March 17, 2000
<u>/s/ John W. Kluge</u> John W. Kluge	Director	March 17, 2000
<u>/s/ Stuart Subotnick</u> Stuart Subotnick	Director	March 17, 2000
<u>/s/ David Rockefeller</u> David Rockefeller	Director	March 17 2000
<u>/s/ Leonard White</u> Leonard White	Director	March 17, 2000

Metromedia Fiber Network, Inc. & Subsidiaries
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Report of Independent Auditors

To the Board of Directors and Shareholders of
Metromedia Fiber Network, Inc.

We have audited the accompanying consolidated balance sheets of Metromedia Fiber Network, Inc. and Subsidiaries (the "Company") as of December 31, 1999 and 1998, and the related consolidated statements of operations, stockholders' equity (deficiency) and cash flows for each of the three years in the period ended December 31, 1999. Our audits also included the financial statement schedule listed in the index at Item 14(a). These consolidated financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and schedule based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Metromedia Fiber Network, Inc. and Subsidiaries as of December 31, 1999 and 1998, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 1999 in conformity with accounting principles generally accepted in the United States. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

As discussed in Note 1 to the financial statements, in 1999 the Company implemented the provisions of FASB Interpretation No. 43 "Real Estate Sales" with respect to certain leases.

Ernst & Young LLP

New York, New York
March 8, 2000

Metromedia Fiber Network, Inc. & Subsidiaries
Consolidated Balance Sheets
(in 000's, except share amounts)

	<u>December 31,</u>	
	<u>1999</u>	<u>1998</u>
Assets		
Current assets:		
Cash and cash equivalents	\$ 1,262,391	\$ 569,319
Pledged securities, current portion	31,960	61,384
Accounts receivable, net	72,166	30,910
Prepaid expenses and other current assets	10,948	4,210
Total current assets	<u>1,377,465</u>	<u>665,823</u>
Fiber optic transmission network and related equipment, net	796,684	244,276
Property and equipment, net	9,215	2,716
Pledged securities	-	30,512
Restricted cash	82,193	-
Marketable securities	29,628	-
Investments in and advances to joint ventures	23,130	4,156
Other assets	102,573	26,934
Goodwill, net	1,539,097	-
Total assets	<u>\$ 3,959,985</u>	<u>\$ 974,417</u>
Liabilities and stockholders' equity		
Current liabilities:		
Accounts payable	\$ 43,344	\$ 6,106
Accrued expenses	186,528	96,512
Deferred revenue, current portion	12,867	8,100
Capital lease obligations and notes payable, current portion	<u>6,781</u>	<u>55</u>
Total current liabilities	249,520	110,773
Senior notes payable	1,660,900	650,000
Capital lease obligations and notes payable	38,414	22,675
Deferred revenue	176,475	33,455
Commitments and contingencies (see notes)		
Stockholders' equity:		
Class A common stock, \$.01 par value; 4,808,062,482 shares authorized; 411,116,800 and 310,420,440 shares issued and outstanding, respectively	4,111	3,104
Class B common stock, \$.01 par value; 1,044,509,564 shares authorized; 67,538,544 shares issued and outstanding	676	676
Additional paid-in capital	1,995,741	195,971
Accumulated deficit	(157,175)	(42,237)
Accumulated other comprehensive loss	(8,677)	-
Total stockholders' equity	<u>1,834,676</u>	<u>157,514</u>
Total liabilities and stockholders' equity	<u>\$ 3,959,985</u>	<u>\$ 974,417</u>

See accompanying notes.

Metromedia Fiber Network, Inc. & Subsidiaries
Consolidated Statements of Operations
(in 000's, except per share amounts)

	For the Year Ended December 31,		
	1999	1998	1997
Revenue	\$ 75,247	\$ 36,436	\$ 2,524
Expenses:			
Cost of sales	49,019	13,937	3,572
Selling, general and administrative	51,010	14,712	6,303
Consulting and employment incentives	397	248	19,218
Settlement agreements	1,932	3,400	-
Depreciation and amortization	45,965	1,532	757
Income (loss) from operations	(73,076)	2,607	(27,326)
Interest income	32,106	8,788	1,808
Interest expense (including financing costs)	(72,362)	(6,861)	(741)
Loss from joint ventures	(1,606)	(146)	-
Income (loss) before income taxes	(114,938)	4,388	(26,259)
Income taxes	-	3,402	-
Net income (loss)	<u><u>\$ (114,938)</u></u>	<u><u>\$ 986</u></u>	<u><u>\$ (26,259)</u></u>
Net income (loss) per share, basic	<u><u>\$ (0.28)</u></u>	<u><u>\$ 0.00</u></u>	<u><u>\$ (0.14)</u></u>
Net income per share, diluted	<u><u>N/A</u></u>	<u><u>\$ 0.00</u></u>	<u><u>N/A</u></u>
Weighted average number of shares outstanding, basic	<u><u>407,192</u></u>	<u><u>373,980</u></u>	<u><u>189,788</u></u>
Weighted average number of shares outstanding, diluted	<u><u>N/A</u></u>	<u><u>439,048</u></u>	<u><u>N/A</u></u>

See accompanying notes.

Metromedia Fiber Network, Inc. & Subsidiaries
Consolidated Statements of Cash Flows
(in 000's)

	Year Ended December 31,		
	1999	1998	1997
Cash flows from operating activities:			
Net income (loss)	\$ (114,938)	\$ 986	\$ (26,259)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:			
Depreciation and amortization	45,965	1,532	757
Amortization of deferred financing costs	2,464	-	-
Stock, stock options and warrants issued for services	397	248	19,439
Stock and warrants issued for settlement agreements	1,932	3,000	-
Deferred taxes	-	2,707	-
Reserve for note receivable	-	-	-
Loss from joint ventures	1,606	146	338
Change in operating assets and liabilities:			
Accounts receivable	(31,716)	(30,073)	(656)
Prepaid expenses	(4,567)	-	-
Accounts payable and accrued expenses	54,983	13,449	112
Deferred revenue	110,390	30,060	1,237
Other	(6,851)	(4,070)	(506)
Net cash provided by operating activities	59,665	17,985	2,183
Cash flows from investing activities:			
Purchase of marketable securities	(29,628)	-	-
Capital expenditures on fiber optic transmission network and related equipment	(409,554)	(114,849)	(1,206)
Deposit payments	-	(4,675)	(37)
Investments in and advances to joint venture	(7,674)	(4,246)	(56)
Cash acquired through AboveNet acquisition	135,163	-	-
Capital expenditures on property and equipment	(8,155)	(2,305)	(313)
CSD acquisition (net of cash acquired)	(24,966)	-	-
Net cash used in investing activities	(344,814)	(126,075)	(12,667)
Cash flows from financing activities:			
Proceeds from issuance of common stock	20,353	1,038	133,975
Proceeds from issuance of preferred stock and warrants	-	-	32,500
Payment of pre-acquisition debt of acquired business	(15,028)	-	-
Dividends paid on preferred stock	-	-	(77)
Repayments of notes payable- private placement	-	-	(1,405)
Purchases and sales of pledged securities	59,936	(91,896)	-
Restricted cash secured by letter of credit	(50,973)	-	-
Repayments of notes payable	(1,544)	-	(5,950)
Proceeds from senior notes payables, net	1,010,900	630,000	-
Payment of deferred financing costs	(36,746)	-	-
Payments of capital lease obligations	-	(579)	-
Purchase of common stock	-	-	(1,240)
Purchase of preferred stock	-	-	(2,039)
Net cash provided by financing activities	986,898	538,563	55,861
Effect of exchange rate changes on cash	(8,677)	-	-
Net increase in cash and cash equivalents	693,072	430,473	43,382
Cash and cash equivalents-beginning of year	569,319	138,846	464
Cash and cash equivalents-end of year	\$ 1,262,391	\$ 569,319	\$ 44,846
Supplemental information:			
Interest paid	\$ 649,441	\$ 219	\$ 1,145
Income taxes paid	\$ 2,771	\$ 3,760	\$ -
Supplemental disclosure of significant non-cash investing activities:			
Capital lease obligations	\$ 3,384	\$ 23,309	\$ -
Accrued capital expenditures	\$ 131,726	\$ 82,916	\$ -

See accompanying notes

In connection with the acquisition of all of the common stock of AboveNet, the Company issued shares of Class A common stock with a total value of \$1,681,102 and options and warrants with a total value of \$98,925

Metromedia Fiber Network, Inc. & Subsidiaries

Consolidated Statement of Changes in Stockholders' Equity (Deficiency)

(\$'000's)

	Series A & B Preferred Stock		Common Stock		Class A Common Stock		Class B Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount				
Balance at December 31, 1996	600	60	160,024	1,600	-	-	-	-	7,221	(15,739)	-	(6,858)
Issuance of common stock in connection with the exercise of warrants	-	-	2,432	24	-	-	-	-	(14)	-	-	10
Issuance of options to employees	-	-	-	-	-	-	-	-	19,218	-	-	19,218
Issuance of warrants in connection with debt extension	-	-	-	-	-	-	-	-	220	-	-	220
Dividends on preferred stock	-	-	-	-	-	-	-	-	-	(77)	-	(77)
Repurchase and retirement of Series A preferred stock and warrants	(600)	(60)	-	-	-	-	-	-	(1,966)	(14)	-	(2,040)
Repurchase and retirement of common stock and warrants	-	-	(9,414)	(94)	-	-	-	-	89	(1,134)	-	(1,139)
Sale of Series B preferred stock	32	-	-	-	-	-	-	-	32,500	-	-	32,500
Net proceeds from Initial Public Offering	-	-	-	-	145,726	1,458	-	-	133,421	-	-	133,879
Conversion of common stock to Series A common stock	-	-	(153,042)	(1,530)	153,040	1,530	-	-	-	-	-	-
Conversion of Series B Preferred Stock to Series A & B common stock	(32)	-	-	-	628	6	67,538	676	(682)	-	-	-
Sale of Series A common stock for warrant	-	-	-	-	192	2	-	-	84	-	-	86
Net loss for the year	-	-	-	-	-	-	-	-	-	(26,259)	-	(26,259)
Balance at December 31, 1997	-	-	-	-	299,586	2,996	67,538	676	189,091	(43,223)	-	149,540

Metromedia Fiber Network, Inc. & Subsidiaries

Consolidated Statement of Changes in Stockholders' Equity (Deficiency) (Continued)

(\$000's)

	Series A & B Preferred Stock		Class A Common Stock		Class B Common Stock		Additional Paid-in Capital		Accumulated Deficit		Other Comprehensive Loss		Total	
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount
Issuance of options to employees	-	-	-	-	-	-	-	-	-	-	-	-	248	-
Issuance of warrants in connection with settlement agreement	-	-	-	-	-	-	-	3,000	-	-	-	-	-	3,000
Issuance of common stock in connection with the exercise of warrants	-	-	-	8,636	-	86	-	75	-	-	-	-	161	-
Issuance of common stock in connection with the exercise of stock options	-	-	-	2,200	-	22	-	850	-	-	-	-	872	-
Net income for the year	-	-	-	-	-	-	-	-	-	986	-	-	986	-
Income tax benefit from exercises of employee stock options	-	-	-	-	-	-	-	2,707	-	-	-	-	2,707	-
Balance at December 31, 1998	-	-	310,424	3,104	67,538	676	195,971	-	(42,237)	-	-	-	157,514	-
Issuance of common stock in connection with the acquisition of Abovet	-	-	83,306	834	-	-	1,680,268	-	-	-	-	-	1,681,102	-
Issuance of warrants in connection with the acquisition of Abovet	-	-	-	-	-	-	98,925	-	-	-	-	-	98,925	-
Issuance of common stock in connection with the exercise of stock options	-	-	14,482	144	-	-	19,730	-	-	-	-	-	19,874	-
Warrant exercises	-	-	2,874	29	-	-	450	-	-	-	-	-	479	-
Consulting fees	-	-	30	-	-	-	397	-	-	-	-	-	397	-
Comprehensive loss	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net loss	-	-	-	-	-	-	-	-	(114,938)	-	-	-	(114,938)	-
Foreign currency translation adjustment	-	-	-	-	-	-	-	-	-	-	(8,677)	-	(8,677)	-
Comprehensive loss	-	-	-	-	-	-	-	-	-	-	-	-	(123,615)	-
Balance at December 31, 1999	-	-	411,116	4,111	67,538	676	1,995,741	-	(157,175)	-	(8,677)	-	1,834,676	-

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 1: Basis of Presentation, Description of the Business and Significant Accounting Policies

Basis of Presentation

The consolidated financial statements include the accounts of Metromedia Fiber Network, Inc. and its wholly owned subsidiaries, (collectively, the "Company"), which includes as of March 11, 1999 Communication Systems Development, Inc. ("CSD") and as of September 8, 1999, AboveNet Communications, Inc. ("AboveNet") and it's wholly-owned subsidiary Palo Alto Internet Exchange ("PAIX"). (see note 2). All significant inter-company balances and transactions have been eliminated in consolidation. Investments in joint ventures which are not majority owned, or which the Company does not control but over which it exercises significant influence, are accounted for using the equity method. Certain reclassifications have been made to the consolidated financial statements for prior years to conform to the current presentation.

Description of Business

The Company provides dedicated fiber optic infrastructure and high-bandwidth Internet connectivity for its communications intensive customers. The Company is a facilities-based provider of technologically advanced, high-bandwidth, fiber optic communications infrastructure to communications carriers and corporate and government customers in the United States and Europe. Through its acquisition of AboveNet, the Company also provides "one-hop" connectivity that enables mission critical Internet applications to thrive, as well as high-bandwidth infrastructure, including managed co-location services. PAIX serves as a packet switching center for ISPs and also offers secure, fault-tolerant co-location services to ISPs.

The Company currently has operations in, or under construction in, eleven Tier I cities throughout the United States and seven selected international markets. The Company intends to expand its presence to include approximately 50 Tier I and Tier II markets in the United States and 17 major international markets.

The Company's existing intra-city networks consist of approximately 514,000 fiber miles covering in excess of 1,000 route miles in the first eleven Tier I cities. Its inter-city network consists of approximately 132,000 fiber miles primarily covering its 255 route-mile network that the Company has built between New York City and Washington D.C. The Company has also built or contracted to acquire (primarily through fiber swaps) a nationwide dark fiber network linking its intra-city networks.

In February 1999, the Company entered into an agreement with Viatel, Inc. and Carrier 1 Holdings, Ltd to jointly build a dark fiber inter-city network among selected cities throughout Germany. Once completed, our German network will consist of approximately 320,000 fiber miles covering in excess of 1,450 route miles connecting 14 major cities. The Company has also swapped strands of fiber in the United States for strands of fiber on the Circe network, which connects a number of European markets. In addition to its inter-city networks, the Company is constructing 16 intra-city networks throughout Europe. Separately, the Company has also entered into a contract to acquire rights to dark fiber network facilities in Toronto, Canada.

Summary of Significant Accounting Policies

Management Estimates

The preparation of financial statements in conformity with generally accepted accounting principles, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Actual results may differ from those estimates.

Fair Value of Financial Instruments

The carrying amounts for cash, accounts receivable, accounts payable and accrued liabilities approximate fair value. The fair value of long-term debt is determined based on quoted market rates or the cash flows from such financial instruments discounted at the Company's estimated current interest rate to enter similar financial instruments. At December 31, 1999, the fair value of the Company's fixed rate long-term debt for the 10% senior notes due in 2008, and 2009 was \$650 million, and \$1.0 billion, respectively. The recorded amounts for all other long-term debt of the Company approximates fair values.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 1: Basis of Presentation, Description of the Business and Significant Accounting Policies(Continued)

Foreign Currency Translation

The statutory accounts of the Company's foreign subsidiaries are maintained in accordance with local accounting regulations and are stated in local currencies. Local statements are translated into U.S. generally accepted accounting principles and U.S. dollars in accordance with Statement of Financial Accounting Standards No. 52 ("SFAS 52"), "Accounting for Foreign Currency Translation."

Under SFAS 52, foreign currency assets and liabilities are generally translated using the exchange rates in effect at the balance sheet date. Results of operations are generally translated using average exchange rates prevailing throughout the year. The effects of exchange rate fluctuations on translating foreign currency assets and liabilities into U.S. dollars are accumulated as part of the foreign currency translation component of other comprehensive income and stockholders' equity. Gains and losses from foreign currency transactions are included in net income in the period in which they occur.

Cash and Cash Equivalents

For purposes of the consolidated financial statements, the Company considers all highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents.

Pledged Securities

In connection with the sale of 10% Senior Notes due 2008 (see Note 12), a portion of the net proceeds was utilized to purchase a portfolio consisting of U.S. government securities, which mature at dates sufficient to provide for payment in full of interest on the 10% Senior Notes due 2008 through May 15, 2000. The pledged securities are stated at cost, adjusted for premium amortization and accrued interest. The fair value of the pledged securities approximates the carrying value.

Accounts Receivable

Accounts receivable includes trade receivables and costs and estimated earnings in excess of billings for those contracts where the Company utilizes the percentage of completion method for recognizing revenue.

Marketable Securities

Marketable securities primarily consist of investments in United States Government and corporate obligations and are classified as held-to-maturity. Accordingly, such investments are carried at cost, with unrealized gains and losses reported upon maturation of the underlying investment.

Fiber Optic Transmission Network and Related Equipment

The fiber optic transmission network and related equipment are stated at cost. Costs in connection with the installation and expansion of the network are capitalized. Depreciation is computed using the straight-line method through the life of either the franchise agreement or right of way for the related network.

Property and Equipment

Fixed assets are stated at cost and depreciation for financial reporting purposes is calculated using the straight-line method over the estimated useful lives of the assets ranging from three to five years. Leasehold improvements are amortized over the lesser of the useful life of the asset or the remaining period of the lease.

Other Assets

Other assets include debt issuance costs, franchise agreements and deposits. Those costs that are amortizable, are amortized on a straight-line basis over a period ranging from ten to twenty years.

Long-Lived Assets

The Company reviews for the impairment of long-lived assets and certain identifiable intangibles, including goodwill, whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company has identified no such impairment indicators.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 1: Basis of Presentation, Description of the Business and Significant Accounting Policies(Continued)

Income Taxes

In accordance with Statement of Financial Accounting Standards ("SFAS") No. 109, "Accounting for Income Taxes," the Company recognizes deferred income taxes for the tax consequences in future years of differences between the tax bases of assets and liabilities and their financial reporting amounts at each year end, based on enacted tax laws and statutory tax rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount that is "more likely than not" to be realized. The provision for income taxes is the tax payable for the period and the change, during the period, in deferred tax assets and liabilities.

Recapitalizations

In April 1997, the Company increased its authorized common stock of \$.01 par value to 60,000,000 shares; in addition, authorized preferred stock with a par value of \$.01 was increased to 2,000,000 shares. On April 29, 1997, the Company effected a 3-for-one stock split of its outstanding shares of common stock.

In September 1997, the Company effected a .507-for-one reverse stock split of its common stock.

On October 28, 1997, the total authorized number of shares of common stock of the Company was increased to 200 million shares, par value \$0.01 per share, of which 180 million shares were designated Class A common stock and 20 million shares were designated Class B common stock.

During 1999, the Company completed two-for-one stock splits of the Company's Class A and Class B Common Stock in the form of a 100 percent stock dividend to all shareholders of record on August 7, 1998, December 8, 1998, and May 3, 1999. These splits were effective on August 28, 1998, December 22, 1998 and May 19, 1999, respectively.

On May 6, 1999, the total authorized number of shares of stock of the Company was increased to approximately 5.9 billion shares, par value \$0.01 per share, of which 40 million shares were designated as preferred stock, 4.8 billion shares were designated Class A common stock and 1.0 billion shares were designated Class B common stock.

On March 2, 2000 the Company announced a two-for-one stock split of the Company's Class A and Class B Common Stock in the form of a 100 percent stock dividend to all shareholders of record on March 14, 2000.

The accompanying financial statements give retroactive effect to the above recapitalizations.

Recognition of Revenue

The Company recognizes revenue on telecommunications services ratably over the term of the applicable lease agreements with customers. Amounts billed in advance of the service provided are recorded as deferred revenue. Revenue on bandwidth and space requirement charges is recognized in the period in which the services are provided. In addition, the Company occasionally enters into sales-type leases for portions of its network. For those leases entered into prior to completion of the portion of the network and under contracts entered into before June 30, 1999, the Company recognizes revenue using the percentage of completion method.

Under the percentage of completion method, progress is generally measured on performance milestones relating to the contract where such milestones fairly reflect the progress toward contract completion. Network construction costs include all direct material and labor costs and those indirect costs related to contract performance. General and administrative costs are charged to expense as incurred. If necessary, the estimated loss on an uncompleted contract is expensed in the period in which it is identified. Contract costs are estimated using allocations of the total cost of constructing the specific phase of the network. Revisions to estimated profits on contracts are recognized in the period that they become known.

Most of the Company's contracts for the provision of dark fiber are accounted as operating leases under which it recognizes recurring monthly revenues. For certain other contracts the Company recognizes revenue under the percentage of completion method for the provision of dark fiber. Effective June 30, 1999, the Financial Accounting Standards Board issued FASB Interpretation No. 43 "Real Estate Sales" ("FIN 43") which requires that

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 1: Basis of Presentation, Description of the Business and Significant Accounting Policies(Continued)

sales or leases of integral equipment be accounted for in accordance with real estate accounting rules. The company believes that the staff of the Securities and Exchange Commission requires the classification of dark fiber cables in the ground as integral equipment as defined in FIN 43. Accounting for dark fiber leases as defined by FIN 43 does not change any of the economics of the contracts. It requires the Company, however, to recognize the revenue from certain leases as operating leases over the term of the contract as opposed to the prior method of recognizing revenue during the period over which the Company delivers the fiber. As a result, this change in accounting treatment reduces the revenue and income that the Company recognizes in the earlier years of the contract and spreads it out over the life of the contract regardless of when the cash was received or the delivery of the fiber took place.

By way of example, if the Company entered into an agreement for a 25-year lease for dark fiber with a customer who pays \$100.0 million in cash when the contract is signed, the Company previously recorded revenues of \$20.0 million over the 5 years during which the Company delivered the dark fiber. By contrast, the real estate accounting rules of FIN 43 would require recognition of revenue of \$4.0 million per year over the 25 year term of the contract, even though the Company would receive a cash payment of \$100.0 million when the contract is signed.

The Company implemented FIN 43 real estate accounting for certain of its leases entered into after June 30, 1999, and has not restated any amounts for contracts executed prior to such date. Although there was no change to the economics of the contracts or the timing of the cash to be received by the Company, the impact of the change in accounting resulted in the Company recording substantially less revenue between the dates of July 1, 1999 and December 31, 1999 than would have been recorded if this change had not been imposed. Revenue recognized for the years ended December 31, 1999 and 1998 related to the percentage of completion method was \$40.3 million and \$32.8 million respectively. The related cost of sales recorded was \$10.7 million and \$11.2 million, respectively, for the years ended December 31, 1999 and 1998. No revenues were recognized or cost of sales incurred relating to the percentage of completion method in 1997. In the future, similar revenues will be recognized over the term of the related contracts, typically 20 to 25 years.

The Company also provides installation services for its customers, and as these services typically are completed within a short time period, the Company records the revenues and related costs for these services under the completed contract method.

Stock Options

The Company has adopted the disclosure-only provisions of SFAS No. 123, "Accounting for Stock-Based Compensation." The Company applies APB Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations in accounting for its stock options.

Consulting and Employment Incentives

The amounts represent the value of common stock, warrants and options issued to consultants, officers, employees and directors of the Company as incentive to provide services to the Company. The 1997 amounts represent the value of options to purchase 49,525,200 shares of the Company's common stock issued in 1997 to officers, employees and directors of the Company. The options have been valued in accordance with APB Opinion No. 25 at the difference between the exercise price of the options and the fair market value of the Company's common stock at the date of grant.

Earnings Per Share

In accordance with the Financial Accounting Standards Board's ("FASB") Statement of Financial Accounting Standards ("SFAS") No. 128, "Earnings Per Share," basic earnings per share is computed based upon the weighted average number of common shares outstanding during the periods. Diluted earnings per share is computed based upon the weighted average number of common shares outstanding plus the assumed issuance of common stock equivalents computed in accordance with the treasury stock method.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 1: Basis of Presentation, Description of the Business and Significant Accounting Policies(Continued)

Deferred Revenue

Deferred revenue represents prepayments received from customers for future use of the Company's fiber optic network and co-location facilities as well as prepayment for installation services, which have not yet been provided. Lease payments are structured as either prepayments or monthly recurring charges. Prepayments are accounted for as deferred revenues and recognized over the term of the respective customer lease agreement.

Comprehensive Loss

Statement of Financial Accounting Standards No. 130 ("SFAS 130") Reporting Comprehensive Income (Loss) establishes rules for the reporting of comprehensive income and its components. Comprehensive income (loss) consists of net income (loss) and foreign currency translation adjustments. The comprehensive income (loss) for the years ending December 31, 1999, 1998 and 1997 was approximately (\$123.6 million), \$1.0 million and (\$26.3 million), respectively.

Segment Information

The Company discloses information regarding segments in accordance with SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information." SFAS No. 131 establishes standards for reporting of financial information about operating segments in annual financial statements and requires reporting selected information about operating segments in interim financial reports. The disclosure of segment information was not required as the Company operates in only one business segment.

As of and for the years ended December 31, 1999, 1998 and 1997, substantially all of the Company's assets were located in the United States and the Company derived substantially all of its revenue from businesses located in the United States.

Impact of Recently Issued Accounting Standards

In June 1998, the FASB issued SFAS No. 133, "Accounting for Derivatives and Hedging Activities," which establishes accounting and reporting standards for derivative instruments and hedging activities. This standard is effective for all fiscal quarters of fiscal years beginning after June 15, 1999. The Company does not expect the adoption of SFAS No. 133 to have an impact on its results of operations, financial position or cash flows.

Note 2: Business Acquisitions

All acquisitions have been accounted for under the purchase method. The results of operations of the acquired businesses are included in the consolidated financial statements from the dates of acquisition.

On September 8, 1999, the Company acquired all of the outstanding common stock of AboveNet for a total purchase price, paid in Company class A common stock, of approximately \$1.8 billion. The holders of AboveNet common stock, stock options and warrants received 2.35 shares of the Company's class A common stock, stock options and warrants, respectively. AboveNet has its primary operations in San Jose, California and is a leading provider of facilities-based, managed services for customer-owned Web servers and related equipment, known as co-location, and high performance Internet connectivity solutions for electronic commerce and other business critical Internet operations. The excess of the purchase price over the fair values of the net assets acquired was approximately \$1.6 billion and has been recorded as goodwill, which is being amortized on a straight-line basis over 20 years. In addition, in connection with the acquisition, the Company issued a letter of credit, secured by the Company's restricted cash in the amount of \$25 million, to further secure a credit facility of AboveNet.

On June 21, 1999, AboveNet acquired certain assets and assumed certain liabilities of the Palo Alto Internet Exchange ("PAIX") from Compaq Computer Corporation ("Compaq") for a total purchase price of \$76.4 million consisting of \$70 million in cash, certain future ongoing services to be provided by AboveNet to Compaq.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 2: Business Acquisitions (Continued)

with a value estimated to be \$5.0 million, and acquisition related costs of \$1.4 million. PAIX is a high-level switching and peering point for global and Internet service providers and content providers.

On March 11, 1999, the Company acquired all the outstanding common stock of Communication Systems Development, Inc. ("CSD") for \$25 million in cash. CSD has its primary operations in Dallas, Texas and is engaged in the engineering and construction of fiber optic networks. The excess of the purchase price over the fair values of the net assets acquired was approximately \$11.2 million and has been recorded as goodwill, which is being amortized on a straight - line basis up to 20 years.

The following unaudited pro forma financial information presents the combined results of operations of the Company and the above acquisitions as if the acquisitions had occurred as of the beginning of 1999 and 1998, after giving effect to certain adjustments, including amortization of goodwill and related income tax effects. The pro forma financial information does not necessarily reflect the results of operations that would have occurred had the entities constituted a single entity during such periods. The amounts are presented in thousands, except per share amounts.

	<u>December 31,</u>	
	<u>1999</u>	<u>1998</u>
Revenue.	\$ 96,487	\$ 46,588
Net Income/(Loss).	\$ (198,853)	\$ (89,306)
income/(Loss) per share, basic	\$ (0.49)	\$ (0.20)

Subsequent to the end of the fiscal year, on January 19, 2000 the Company completed the acquisition of MIBH Inc., a network outsourcing provider offering full-service management of business Internet connectivity solutions for approximately \$51 million in cash and stock.

Under the terms of the agreement, MIBH became a wholly owned subsidiary of Metromedia Fiber Network, Inc. The shareholders of MIBH, a privately held company, received an aggregate of 2,078,096 shares of Metromedia Fiber Network Class A common stock and \$3.0 million in cash.

Note 3: Accounts Receivable

Accounts receivable consists of the following (in 000's):

	<u>December 31,</u>	
	<u>1999</u>	<u>1998</u>
Trade accounts receivable.	\$ 20,005	\$ 560
Costs and earnings in excess of billings.	47,442	30,134
Other	4,719	216
	<u>\$ 72,166</u>	<u>\$ 30,910</u>

At December 31, 1999, two customers accounted for 29% and 25%, respectively, of the Company's combined accounts receivable.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 4: Fiber Optic Transmission Network and Related Equipment

Fiber optic transmission network and related equipment consists of the following (in 000's):

	<u>December 31,</u>	
	<u>1999</u>	<u>1998</u>
Fiber optic network, net	\$ 318,494	\$ 51,418
Data Centers	97,400	-
Telecommunication equipment & other	51,878	-
Construction in progress	356,404	195,256
Total Network	824,176	246,674
Less: accumulated depreciation	(27,492)	(2,398)
	<u>\$ 796,684</u>	<u>\$ 244,276</u>

Construction in progress includes amounts incurred in the Company's expansion of its network. These amounts include fiber optic cable and other materials, engineering and other layout costs, fiber optic cable installation costs and other network assets held under capital leases. Construction in progress also includes payments for rights of way for the underlying sections of the network build. During 1999, \$9,383 of interest expense was capitalized.

Note 5: Property and Equipment

Property and equipment consists of the following:

	<u>December 31,</u>	
	<u>1999</u>	<u>1998</u>
Leasehold improvements.	\$ 1,025	\$ 614
Furniture, equipment and software	10,490	2,581
	11,515	3,195
Less: accumulated depreciation and amortization ..	(2,300)	(479)
	<u>\$ 9,215</u>	<u>\$ 2,716</u>

Note 6: Investments in and Advances to Joint Ventures

During 1997 the Company formed a joint venture with Rcal Telecommunications, Inc. ("Rcal") that provides broad-based transatlantic communication services between New York and London. During 1999 and 1998, the Company made capital contributions of \$1.8 million and \$4.3 million, respectively. The Company accounts for its investment using the equity method. For 1999 and 1998, the Company recorded equity losses of \$431,000 and \$146,000, respectively based on its 50% interest in the joint venture. Included within the Company's accounts receivable is \$699,000 for administrative services provided to the joint venture which were not reimbursed as of December 31, 1999.

As part of its international expansion strategy, AboveNet has entered into joint ventures to provide managed co-location and Internet connectivity solutions for mission critical Internet operations overseas. In March 1999, AboveNet entered into agreements to form joint ventures in Austria, Germany, France and the United Kingdom. AboveNet invested a total of \$15.2 million in these ventures in 1999. These joint ventures are accounted for under the equity method of accounting.

In December 1999, AboveNet entered into a joint venture agreement in Japan. The Company invested a total of \$4.0 million and is required to invest an additional \$4.0 million for up to a 40% ownership in this venture.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 6: Investments in and Advances to Joint Ventures (Continued)

In February 2000, the Company purchased 100% of the shares owned by the joint venture partners' of AboveNet's joint venture in the United Kingdom for shares of the Company's stock with a market value of \$10 million.

Note 7: German Network Build

In February 1999, the Company entered into a joint venture with Viatel, Inc. and Carrier 1 Holdings, Ltd. to jointly build a national fiber optic telecommunications network in Germany. Upon completion of construction, the joint venture will be dissolved and the Company will own its own separate German broadband network. In connection with the terms of this agreement, the Company made a deposit payment of \$4.7 million, during the third quarter of 1998. Upon signing a definitive agreement, the Company provided an irrevocable standby letter of credit in the amount of \$64 million as security for the construction costs of the network, which, in addition to the deposit payment made, covers the Company's portion of the estimated construction costs. At December 31, 1999, construction costs of approximately \$35.1 million has been incurred and is included in fiber optic transmission network.

Note 8: Investment in FiberNet

On December 20, 1999, the Company signed a lease agreement with FiberNet Telecom Group, Inc. ("FiberNet") to lease intra-city dark fiber to FiberNet in key markets over the next 20 years. As part of the transaction, the Company exchanged its existing interest in one of FiberNet's subsidiaries, Local Fiber, LLC. Additionally, FiberNet has agreed to provide the Company with access to certain of FiberNet's commercial office buildings. As partial consideration for these agreements, FiberNet issued 5 million shares of its common stock, valued at \$30.0 million, to the Company representing approximately 10.0% of FiberNet's fully diluted shares. The Company is accounting for this investment under the cost method.

Note 9: Accrued expenses

Accrued expenses at December 31, 1999 and 1998 consist of the following (in thousands):

	1999	1998
Accrued salaries and wages	\$ 4,933	\$ 1,195
Accrued taxes	13,529	2,392
Accrued interest	20,600	6,931
Accrued capital expenditures - network	131,726	82,916
Other	15,740	3,076
	<u>186,528</u>	<u>\$ 96,510</u>

Note 10: Related Party Transactions

The Company is a party to a management agreement under which the Company's controlling shareholder, Metromedia Company, provides consultation and advisory services relating to legal matters, insurance, personnel and other corporate policies, cash management, internal audit and finance, taxes, benefit plans and other services as are reasonably requested. The management agreement terminates on December 31, of each year, and is automatically renewed for successive one-year terms unless either party terminates upon 60 days prior written notice. The 1999 management fee under the agreement was \$1.0 million, payable quarterly at a rate of \$250,000. The 1998 management fee under the agreement was \$500,000, payable quarterly at a rate of \$125,000. The Company is also obligated to reimburse Metromedia Company for all its out-of-pocket costs and expenses incurred and advances paid by Metromedia Company in connection with the management agreement.

Note 11: Settlement Agreements

In March 1998, the Company entered into a settlement agreement with Howard Katz, Realprop Capital Corporation and Evelyn Katz, among others, which settled and resulted in the dismissal of litigation for which the Company was a defendant in *Katz, et al. v. National Fiber Network, Inc., et al.*, No. 97 Civ. 2764 (JGK).

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 11: Settlement Agreements (Continued)

In March 2000, the Company and other defendants entered into a settlement agreement with the plaintiffs in *Vento & Company of New York, LLC v. Metromedia Fiber Network, Inc., et al.*, No. 97 CIV 7751(JGK), which settled and resulted in the dismissal of the litigation.

Note 12: Notes Payable

On October 25, 1999, the Company issued and sold approximately \$1.0 billion of 10% senior notes due October 15, 2009. The net proceeds of the 10% senior notes were approximately \$950.0 million, after deducting offering costs, which are included in other long-term assets. Interest on the 10% senior notes is payable semi-annually in arrears on April 15 and October 15 of each year, commencing April 15, 2000. The 10% senior notes due 2009 are subject to redemption at the option of the Company, in whole or in part, at any time on or after October 15, 2004, at specified redemption prices. In addition, prior to October 15, 2002, the Company may use the net cash proceeds from certain specified equity transactions to redeem up to 35% of the 10% senior notes due 2009 at specified redemption prices.

On November 25, 1998, the Company issued and sold \$650.0 million of 10% senior notes due November 15, 2008. The net proceeds of the 10% senior notes were approximately \$630.0 million, after deducting offering costs, which are included in other long-term assets. Interest on the 10% senior notes is payable semi-annually in arrears on May 15 and November 15 of each year, commencing May 15, 1999. Approximately \$91.5 million of the net proceeds was utilized to purchase certain pledged securities the proceeds of which, together with interest earned on such securities, will be used to satisfy the Company's semi-annual interest obligations through May 15, 2000. The 10% senior notes are subject to redemption at the option of the Company, in whole or in part, at any time on or after November 15, 2003, at specified redemption prices. In addition, prior to November 15, 2001, the Company may use the net cash proceeds from certain specified equity transactions to redeem up to 35% of the 10% senior notes at specified redemption prices.

Both indentures pursuant to which the senior notes are issued contain certain covenants that, among other matters, limit the ability of the Company and its subsidiaries to incur additional indebtedness, issue stock in subsidiaries, pay dividends or make other distributions, repurchase equity interests or subordinated indebtedness, engage in sale and leaseback transactions, create certain liens, enter into certain transactions with affiliates, sell assets, and enter into certain mergers and consolidations.

In the event of a change in control of the Company as defined in the indentures, holders of the senior notes will have the right to require the Company to purchase their Notes, in whole or in part, at a price equal to 101% of the stated principal amount thereof, plus accrued and unpaid interest, if any, thereon to the date of purchase. The senior notes are senior unsecured obligations of the Company, and are subordinated to all current and future indebtedness of the Company's subsidiaries, including trade payables.

At December 31, 1999, AboveNet had \$19.1 million outstanding under its credit facility (the "Credit Facility"), with no additional borrowings available. Borrowings outstanding under the Credit Facility are payable in 42 monthly installments, bear interest at rates ranging from 13.3% to 15.1% and are collateralized by the equipment and leasehold improvements purchased with the proceeds of the borrowing. Additionally, in connection with the acquisition, the Company issued a letter of credit, secured by the Company's restricted cash in the amount of \$25.0 million, to further secure the Credit Facility. At December 31, 1999, the outstanding borrowings on the Credit Facility are due as follows: 2000 - \$5,385, 2001 - \$6,762, and 2002 - \$6,934.

Note 13: Equity Transactions

Common Stock

On November 3, 1997, the Company completed the initial public offering ("the "IPO") of 145,728,000 shares of its Class A common stock, at an offering price of \$1 per share. The net proceeds to the Company from the IPO, after deducting expenses of the IPO, were approximately \$133.9 million.

In addition, on October 28, 1997, a total of 153,039,040 shares of the common stock of the Company owned by stockholders prior to the IPO were exchanged for an equal number of shares of Class A common stock. The Company also reserved for issuance 68,167,776 shares of Class A common stock for conversion of the Class B common stock.

Note 13: Equity Transactions (Continued)

On October 28, 1996, a shareholder granted to the Company's Chairman of the Board an option to purchase 6,398,224 shares of common stock of the company for an aggregate exercise price of \$500,000. By letter dated December 3, 1996, the option was amended to reduce the number of option shares to 5,181,424 shares. The Chairman thereafter assigned the option to the Company. On February 11, 1997, the Company exercised the option by payment of \$500,000.

In September 1999, in connection with the AboveNet acquisition, the Company issued 83,305,350 shares of common stock in exchange for the outstanding shares of AboveNet's common stock at an exchange ratio of 2.35.

On October 7, 1999, the Company entered into a securities purchase agreement with Bell Atlantic Investments, Inc. ("Bell Atlantic"), under which Bell Atlantic would purchase up to approximately 51.2 million newly issued shares of its class A common stock at a purchase price of \$14.00 per share and a convertible subordinated note of approximately \$975.3 million, which is convertible into shares of its class A common stock at a conversion price of \$17.00 per share. This transaction closed on March 6, 2000. Assuming the issuance of the 51.2 million shares of class A common stock and conversion of the convertible subordinated note, this investment would represent 18.2% of the Company's outstanding shares. Bell Atlantic has also agreed to pay the Company \$550 million over the next three years in exchange for delivery of fiber optic facilities over the next five years. The proceeds from these two transactions will be used to fund the expansion of the Company's network.

Preferred Stock

On April 30, 1997, the Company sold an aggregate of 134,453,200 shares of Series B convertible preferred stock, par value \$0.01 per share (the "Series B preferred stock"), to Metromedia Company and affiliates ("Metromedia") for an aggregate purchase price of \$32.5 million (the "Metromedia Investment"). Each share of the Series B preferred stock was convertible into 507 shares of the Company's common stock. On October 28, 1997, the Series B convertible preferred shares were converted into 68,167,776 shares of Class B common stock. Further, on October 28, 1997, a total of 629,232 shares of Class B common stock outstanding were converted into an equivalent number of shares of Class A common stock.

A portion of the proceeds from the Metromedia Investment was used to repay the Metromedia Loan, discussed below, and accrued interest thereon (\$4,058,127), repay other short-term indebtedness (\$3,485,000), and redeem (for \$2,115,000) all of the outstanding shares of the Company's preferred stock (the "Series A preferred stock") and related warrants.

Through April 30, 1997, Metromedia loaned the Company an aggregate of \$4,000,000 (the "Metromedia Loan"). A portion of the proceeds from the Metromedia Loan was used to purchase 9,415,520 shares of the Company's common stock and warrants to purchase 3,326,128 shares of its common stock.

No shares of the Company's Series A preferred stock or Series B preferred stock remained outstanding at December 31, 1997. Both the Series A and Series B preferred stock of the Company have been eliminated pursuant to actions by the Board of Directors.

Stock Warrants

a. In 1996, the Company entered into an agreement with a customer for exclusive usage rights for fibers on portions of network. In connection with this agreement, the Company borrowed \$4.9 million from the customer.

On April 30, 1997, the Company amended this agreement to satisfy the obligations of the above-referenced note by providing (i) additional leased fiber miles, (ii) a cash payment of \$1,370,000 and (iii) a warrant to purchase common stock of the Company. In July 1998, the agreement was amended to include additional fiber miles on the Company's network and for cancellation of the warrants.

b. From October 1995 through February 1996, the Company issued and sold a private offering of \$858,000 of convertible subordinated notes. Concurrent with the issuance of these notes, warrants were issued by the Company to the noteholders to purchase 2,088,032 shares of common stock at \$.50 per share through November 2000. In 1996 and 1997, in exchange for the extension of the due dates of the notes, the Company issued warrants to purchase 2,636,168 shares of its common stock at \$.50 per share and recorded a charge of \$111,306 and \$220,036 in 1996 and 1997, respectively. In 1997, the Company repaid the outstanding

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 13: Equity Transactions (Continued)

balance of these notes plus all accrued interest. As of December 31, 1999, 3,128,064 of such warrants have been exercised.

c. In September 1996, the Company entered into a loan agreement with a finance company for \$550,000. The loan bore interest at 10% per annum and was repaid in 1997. As an incentive for the loan, the Company issued to the finance company warrants to purchase 1,508,832 shares of common stock at an exercise price of \$0.37. The warrants were exercisable through September 1999. In 1996, the Company recorded a non-cash charge of \$13,640 in connection with the issuance of the warrants. All of the warrants have been exercised. In August 1995, the Company initiated a \$600,000 private offering of subordinated notes, which bore interest at an annual rate of 15% and were repaid in 1997. With the issuance of the notes, warrants were issued to the noteholders. In April 1996, the Company issued a total of 1,149,744 shares of the Company's common stock in exchange for the surrender and cancellation of the warrants and a three-month extension of the maturity date of the notes. In 1996, the Company recorded a non-cash charge of \$107,322 in connection with such issuance.

d. In April 1995, the Company entered into a loan agreement with a customer for \$500,000 bearing interest at 11% per annum. In July 1997, the note was repaid in full. In connection with this loan, the Company issued the customer a warrant entitling the holder to purchase a total of 10,706,672 shares of the Company's common stock. In February 1997, this warrant was exchanged for a new warrant to purchase 7,300,800 shares of the Company's common stock at \$0.30 per share. The new warrant expires on February 13, 2000. As of December 31, 1999, none of the warrants have been exercised.

e. On December 13, 1996, the Company issued and sold to a private investor, for an aggregate cash consideration of \$2,025,000, (i) 2,400,000 shares of 10% cumulative convertible preferred stock (the "Series A preferred stock") bearing dividends at a rate of \$.17 per share per annum, (ii) warrants to purchase 1,825,200 shares of Class A common stock at an exercise price of \$0.31 per share and (iii) a contingent stock subscription warrant to purchase a number of shares of Class A common stock (such number to be determined based on certain future events) at an exercise price of \$0.005 per share. In connection with the Metromedia Investment, the private investor allowed the Series A preferred stock and the contingent warrants to be redeemed at an aggregate redemption price of \$2,115,000 (which includes accrued but unpaid dividends on the Series A preferred stock) and the number of shares underlying the private investor's warrants to be increased from 1,825,200 to 3,650,400. In January 1998, the private investor made a cashless exercise of all its warrants and the number of its shares issuable upon exercise was reduced by the number of shares at the closing on the day of exercise having a value equal to the aggregate exercise price. Accordingly, the Company issued the private investor 2,764,240 common shares for all its warrants.

f. In June 1996, the Company granted 2,433,600 common stock purchase warrants to the Company's legal counsel exercisable at \$0.005 per share for a period of four years as additional consideration for legal services provided. The Company recorded a non-cash charge of \$200,000 for such issuance. As of December 31, 1999, all of the warrants have been exercised.

g. In September 1999, in connection with the AboveNet acquisition the Company issued 893,166 common stock warrants in exchange for the outstanding warrants in AboveNet's common stock as of the date of the acquisition.

As of December 31, 1999, in the aggregate, the Company had reserved approximately 10,912,200 shares of its Class A common stock for exercise of outstanding warrants.

Stock Options

In 1997, the Company granted to certain officers, employees and directors options to purchase up to 49,523,776 shares of its Class A common stock. The options have exercise prices between \$0.125 and \$0.48 per share and expire in 2007. The Company recorded a non-cash charge of \$19,218,591 for such issuances. Of these grants, 8,616,240 were exercised as of December 31, 1999.

On October 28, 1997, the Stockholders of the Company approved the Metromedia Fiber Network, Inc. 1997 Incentive Stock Plan ("1997 Option Plan"). The 1997 Option Plan authorized the award of up to 16,000,000 options to acquire Class A common stock of the Company to directors, officers and employees of the Company and others who are deemed to provide substantial and important services to the Company. In 1997, options to

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 13: Equity Transactions (Continued)

purchase 9,800,000 shares of the Company's Class A common stock were granted at an exercise price of \$1.00 per share, the market price at the date of grant. In 1998, options to purchase 6,800,000 shares of the Company's Class A common stock were granted at exercise prices ranging from \$.97 to \$2.15 per share, the market price at the date of grant. Of these grants, 2,230,000 were canceled and 1,931,400 were exercised as of December 31, 1999.

On May 18, 1998, the Stockholders of the Company approved the Metromedia Fiber Network, Inc. 1998 Incentive Stock Plan ("1998 Option Plan"). The 1998 Option Plan authorized the award of up to 40,000,000 options to acquire Class A common stock of the Company to directors, officers and employees of the Company and others who are deemed to provide substantial and important services to the Company. In 1998 options to purchase 13,836,000 shares of the Company's Class A common stock were granted at exercise prices ranging from \$1.82 to \$6.63 per share, the market prices at the dates of grant. In 1999 option to purchase 12,210,900 shares of the Company's Class A common stock were issued at exercise prices ranging from \$8.52 to \$19.88 the market prices at the dates of grant. Of these grants, 809,800 were canceled and 1,405,880 were exercised as of December 31, 1999.

Following the September 8, 1999 merger with AboveNet, options granted pursuant to the AboveNet plans were converted into stock options exercisable for 10,885,222 of the Company's Class A common stock representing a 2.35 exchange ratio. Of these options, 147,856 were canceled and 2,985,632 were exercised as of December 31, 1999.

The compensation committee of the Company's Board of Directors is responsible for determining the type of award, when and to whom awards are granted, the number of shares and terms of the awards and the exercise price. The options are exercisable for a period not to exceed ten years from the date of the grant. Vesting periods range from immediate vesting to four years.

The following table summarizes the stock option transactions for the three years ended December 31, 1999:

	<u>Number of Options</u>	<u>Exercise Prices</u>
Granted prior to December 31, 1997.	59,323,776	\$ 0.12 to \$ 1.00
Balance outstanding at December 31, 1997.	59,323,776	0.12 to 2.00
Granted	20,636,000	0.97 to 6.63
Exercised.	2,200,096	0.12 to 1.87
Canceled.	2,270,000	1.00 to 2.15
Balance outstanding at December 31, 1998.	75,489,680	0.12 to 6.63
Transfer of AboveNet options in acquisition	10,885,222	0.01 to 31.97
Granted	12,210,900	8.52 to 21.97
Exercised.	14,469,152	0.01 to 18.10
Canceled.	957,656	0.01 to 27.85
Balance outstanding at December 31, 1999.	<u>83,158,994</u>	0.01 to 29.63
Exercisable at:		
December 31, 1997	48,964,688	0.12 to 0.48
December 31, 1998	49,763,680	0.12 to 1.00
December 31, 1999	52,309,454	0.01 to 31.97

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 13: Equity Transactions (Continued)

The following table summarizes information about stock option outstanding at December 31, 1999:

Ranges of Exercise Prices	Options Granted			Options Exercisable	
	Number Outstanding at 12/31/99	Weighted Average Remaining Life (Years)	Weighted Average Exercise Price	Number Exercisable at 12/31/99	Weighted Average Exercise Price
0.01 to 3.20	64,317,974	7.6	0.73	47,951,974	0.36
3.21 to 6.39	2,783,058	8.7	4.56	692,058	5.03
6.40 to 9.59	1,410,298	9.3	8.06	470,298	7.77
9.60 to 12.79	439,522	9.2	11.13	419,522	11.12
12.80 to 15.99	7,905,904	9.6	13.56	147,218	13.84
16.00 to 19.18	4,690,480	9.6	17.40	2,346,626	16.67
19.19 to 22.38	1,543,848	9.7	20.26	213,848	20.86
22.39 to 25.57	3,524	9.3	22.73	3,524	22.73
25.58 to 28.77	38,536	3.0	27.11	38,536	27.10
28.78 to 31.97	25,850	9.3	29.84	25,850	29.84
	<u>83,158,994</u>	<u>8.1</u>	<u>\$ 3.58</u>	<u>52,309,454</u>	<u>\$ 1.47</u>

Pro forma information regarding net income and earnings per share is required by Statement of Financial Standards No. 123, "Accounting for Stock-Based Compensation", and has been determined as if the Company had accounted for its employees' stock options under the fair value method provided by that Statement. The fair value of the options was estimated at the date of grant using the Black-Scholes option-pricing model with the following assumptions for vested and non-vested options:

	December 31,	
	1999	1998
Risk-free interest yield	4.57-6.46%	5.53-6.56%
Volatility factor.	0.867	0.499
Dividend yield.	-----	-----
Average life.	5 years	5 years

The Black-Scholes options valuation model was developed for use in estimating the fair value of traded options, which have no vesting restrictions and are fully transferable. In addition, option valuation models require the input of highly subjective assumptions including the expected stock price volatility. Because the Company's employee stock options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, in management's opinion, the existing models do not necessarily provide a reliable single measure of the fair value of its employee stock options.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 13: Equity Transactions (Continued)

For purposes of pro forma disclosures, the estimated fair value of the options is amortized to expense over the vesting period of the options. The Company's pro forma information is as follows (000's):

	<u>Year Ended December 31,</u>	
	<u>1999</u>	<u>1998</u>
Pro forma net loss applicable to common stock	\$ (131,810)	\$ (864)
Pro forma net loss per share applicable to common stock, basic	\$ (0.32)	\$ (0.01)

The weighted average fair value of options granted was \$10.35, \$1.21 and \$.43 for the years ended December 31, 1999, 1998, and 1997, respectively.

Subsequent to the end of the fiscal year, the Company announced on March 2, 2000 that the Executive Committee of its Board of Directors, acting pursuant to authority delegated by the Board, approved a two-for-one stock split of the Company's Class A and Class B Common Stock in the form of a 100 percent stock dividend. All share and per share amounts presented herein give retroactive effect to the stock split.

Note 14: Significant Customers

During 1999, three customers accounted for 25%, 12% and 10%, respectively of the Company's total revenue. During 1998, three customers accounted for 40%, 35% and 12%, respectively of the Company's total revenue. During 1997, two customers accounted for 21% and 15%, respectively of the Company's total revenue.

Note 15: Income Taxes

Income tax expense (benefit) for the years ended December 31, 1999, 1998 and 1997 is as follows (in thousands):

	<u>1999</u>	<u>1998</u>	<u>1997</u>
<u>Current</u>			
Federal	\$ -	\$ 4,513	\$ -
State and local	-	2,720	-
	<u>-</u>	<u>7,233</u>	<u>-</u>
<u>Deferred</u>			
Federal	-	(2,375)	-
State and local	-	(1,456)	-
	<u>-</u>	<u>(3,831)</u>	<u>-</u>
	<u>\$ -</u>	<u>\$ 3,402</u>	<u>\$ -</u>

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 15: Income Taxes (Continued)

Total income tax expense (benefit) differed from the amounts computed by applying the federal statutory income tax rate (35%) to earnings (loss) before income tax expense (benefit) as a result of the following items for the years ended December 31, 1999, 1998 and 1997 (in thousands):

	<u>1999</u>	<u>1998</u>	<u>1997</u>
U.S. statutory rate applied to pre-tax income (loss)	\$ (39,552)	\$ 1,492	\$ -
State and local taxes, net of federal tax benefit	-	834	-
Non deductible expenses	8,735	1,118	-
Valuation allowance	30,726	-	-
Others, net	91	(42)	-
	<u>\$ -</u>	<u>\$ 3,402</u>	<u>\$ -</u>

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and liabilities at December 31, 1999, 1998 and 1997 are as follows (in thousands):

	<u>1999</u>	<u>1998</u>	<u>1997</u>
<u>Deferred tax assets</u>			
Net operating loss	\$ 101,784	\$ -	\$ 1,125
Deferred revenue	49,759	19,923	5,173
Employee benefits	8,371	9,893	10,074
Cost of sales of IRUs and sales type leases	20,081	5,599	573
Capitalized interest	4,992	-	-
Others	4,297	2,522	1,465
	<u>\$ 189,284</u>	<u>\$ 37,937</u>	<u>\$ 18,410</u>
Valuation allowance	(156,033)	(18,309)	(18,309)
	<u>33,251</u>	<u>19,628</u>	<u>101</u>
<u>Deferred tax (liabilities)</u>			
Capitalized leases	(30,162)	(14,782)	-
Depreciation and amortization	924	(1,003)	(89)
Other	(4,013)	(12)	(12)
	<u>(33,251)</u>	<u>(15,797)</u>	<u>(101)</u>
Net deferred asset	<u>\$ -</u>	<u>\$ 3,831</u>	<u>\$ -</u>

The deferred tax asset has been reserved since it is not certain that future taxable income will be realized in the carryforward period or in year of asset turnaround.

There was no provision for federal or state income taxes for the years ended December 31, 1999 and 1997. As of December 31, 1999, the Company has a net operating loss carryforward in the amount of \$226 million. This carryforward will expire in 2019.

Note 16: 401(k) Plan

In 1998, the Company implemented a 401(k) Plan (the "Plan") which permits employees to make contributions to the Plan on a pre-tax salary reduction basis in accordance with the Internal Revenue Code. All full-time employees are eligible to participate in the Plan at the beginning of the quarter following three months

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 16: 401(k) Plan (Continued)

of service. Eligible employees may contribute up to 15% of their annual compensation. The Company matches 50% of the employees first 6% of contributions. The Company contributed \$293,000 and \$78,000 for the years ending December 31, 1999 and 1998, respectively, as these matching contributions. The Company bore the nominal administrative cost of the Plan since inception.

AboveNet implemented a 401(k) Plan (the "AboveNet Plan") which permits employees to make contributions to the AboveNet Plan on a pre-tax salary reduction basis in accordance with the Internal Revenue Code. All full-time employees are eligible to participate at the beginning of the quarter following three months of service. Eligible employees may contribute up to 15% of their annual compensation. The Company matches 50% of the employees first 6% of contributions. The Company contributed \$195,000 for the period from the acquisition date through December 31, 1999, as these matching contributions. The Company bore the nominal administrative cost of the AboveNet Plan since the acquisition date. Subsequent to year-end, the AboveNet plan was frozen, and AboveNet employees were enrolled in the Plan. Pending Internal Revenue Service approval, the AboveNet Plan will be rolled into the Plan.

Note 17: Reconciliation of Earnings Per Share (in thousands):

	Year Ended December 31,		
	1999	1998	1997
Net income (loss)	\$ (114,938)	\$ 986	\$ (26,259)
Deduct dividend on preferred shares	-	-	77
Net loss applicable to common stock	<u>(114,938)</u>	<u>986</u>	<u>(26,336)</u>
Shares			
Weighted average number of common shares outstanding-basic	407,192	373,980	189,788
Net income (loss) per common share-basic	<u>\$ (0.28)</u>	<u>\$ 0.00</u>	<u>\$ (0.14)</u>
Weighted average number of common shares outstanding-basic	407,192	373,980	189,788
Assuming conversion of warrants and options outstanding	-	65,068	-
Weighted average number of common shares outstanding - diluted	<u>407,192</u>	<u>439,048</u>	<u>189,788</u>
Net income (loss) per common share - diluted	<u>N/A</u>	<u>\$ 0.00</u>	<u>N/A</u>

Note 18: Commitments and Contingencies

Network Construction Projects

In 1998, the Company commenced construction of various networks outside of the New York Metropolitan area. The Company's commitment to purchase materials and contracts for the construction of fiber optic network systems was approximately \$148.3 million as of December 31, 1999.

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 18: Commitments and Contingencies (Continued)

Franchise, License, Right-of Way Agreements and Operating and Capital Leases

The Company has entered into various franchise and license agreements with municipalities and utility-related companies to, in most instances, install, operate, repair, maintain and replace cable, wire, fiber or other transmission media and the related equipment and facilities. The terms for these agreements vary in length, with various renewal and termination provisions. The Company charges the portions of these agreements incurred to construction-in-progress until the related portion of the network is completed. The fees charged to operations in connection with these agreements were approximately \$8,478,000, \$1,673,000 and \$607,000 for the years ended December 31, 1999, 1998 and 1997, respectively.

In addition, the company leases office and operation facilities and various equipment, which expire at various times through March 31, 2010. Rent expense charged to operations was approximately \$4,920,000, \$958,000 and \$268,000 for the years ended December 31, 1999, 1998 and 1997, respectively.

The Company has entered into capital lease agreements for certain network assets and for certain rights-of-ways. Total assets acquired under capital leases were approximately \$27,876,000 at December 31, 1999. The capital leases are held as construction-in-progress until the related portion of the network is completed.

Approximate minimum payments under the aforementioned agreements are (in thousands):

	Franchise, License and Right-of- way Agreements	Capital Leases	Operating Leases
For the year ended December 31,			
2000	\$ 5,476	\$ 2,833	\$ 30,060
2001	3,620	2,827	32,477
2002	3,514	2,306	33,242
2003	3,231	1,991	33,018
2004	3,254	2,060	33,043
Thereafter	32,693	40,975	492,624
Total minimum lease payments	<u>\$ 51,788</u>	<u>52,992</u>	<u>\$ 654,464</u>
Less amounts representing interest		<u>26,878</u>	
Present value of future minimum lease payments		26,114	
Less amounts due in one year		<u>876</u>	
		<u>\$ 25,238</u>	

Litigation

On or about June 12, 1998, Claudio E. Contardi commenced an action against Peter Sahagen, Sahagen Consulting Group of Florida and the Company in the United States District Court for the Southern District of New York, No. 98 CIV 4140(JGK). Mr. Contardi alleges a cause of action for, among other things, breach of a finder's fee agreement entered into between Mr. Sahagen and Mr. Contardi on or about November 14, 1996 and breach of an implied covenant of good faith and fair dealing contained in the finder's fee agreement. Mr. Contardi is seeking, among other things, a number of the Company's shares of class A common stock which the Company cannot currently ascertain but believe to be approximately 225,000 shares (calculated as of the date on which the complaint was filed without taking into account subsequent stock splits) or damages in an amount which the Company cannot currently ascertain but believe to be approximately \$4.9 million (calculated as of the date on which the complaint was

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 18: Commitments and Contingencies (Continued)

filed) and all costs and expenses incurred by him in this action. The Company has filed an answer to the complaint and has raised affirmative defenses. The Company has moved for summary judgment on the complaint.

In January 2000, Herman Goldsmith and Arnold S. Schickler commenced an action against the Company, F. Garofalo Electric Co., Inc. and Stephen A. Garofalo in the Supreme Court of the State of New York, County of New York (No. 600163/00) (the "Goldsmith Litigation"). The complaint alleges a cause of action for breach of contract in connection with an alleged "finders agreement" entered into in 1993 between Messrs. Goldsmith and Schickler, on the one hand, and F. Garofalo Electric Co., Inc. and Stephen A. Garofalo, on the other. Plaintiffs seek damages of \$860,627,590.99, plus interest from September 7, 1999, in addition to their costs, expenses and reasonable attorneys' fees.

The Company intends to vigorously defend both these actions because the Company believes that it acted appropriately in connection with the matters at issue in these two cases. However, there can be no assurance that the Company will not determine that the advantages of entering into a settlement outweigh the risk and expense of protracted litigation or that ultimately the Company will be successful in defending against these allegations. If the Company is unsuccessful in defending against these allegations, an award of the magnitude being sought in the Goldsmith litigation would have a material adverse effect on its financial condition and results of operations.

On or about October 20, 1997, Vento & Company of New York, LLC commenced an action against the Company, Stephen A. Garofalo, Peter Silverman, the law firm of Silverman, Collura, Chernis & Balzano, P.C., Peter Sahagen, Sahagen Consulting Group of Florida, Robert Kramer, Birdie Capital Corp., Lawrence Black, Sterling Capital LLC, Penrush Limited, Needham Capital Group, Arthur Asch, Michael Asch and Ronald Kuzon in the United States District Court for the Southern District of New York, No. 97 CIV 7751(JGK). On or about May 29, 1998, Vento & Company filed an amended complaint. On or about July 1, 1999, Vento & Company filed a second amended complaint. In its complaint, as amended, Vento & Company alleged seven causes of action in connection with its sale of 900,000 shares, not adjusted for subsequent stock splits, of the Company's class A common stock to Mr. Sahagen and some of the defendants on January 13, 1997. These seven causes of action included: (i) violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated under such Act; (ii) fraud and fraudulent concealment; (iii) breach of fiduciary duty (but not against the Company); (iv) negligent misrepresentation and omission; and (v) breach of contract. Vento & Company was seeking, among other things, rescission of the stock sale, or alternatively, damages in an amount, which it contended was in excess of \$460 million, together with interest. In March 2000, the parties entered into a settlement agreement. Under the Company's portion of the settlement, the Company is issuing shares of class A common stock having a value of approximately \$1.9 million. As a result, the action has been dismissed with prejudice.

On June 29, 1999, an alleged stockholder of AboveNet filed a lawsuit, captioned *Kaufman v. Tuan, et al*, Del. Ch. C.A. No. 17259NC, in the Court of Chancery of the State of Delaware in and for the New Castle County. The plaintiff, who purports to represent a class of all AboveNet stockholders, challenges the terms of the proposed merger between the Company and AboveNet. The complaint names, as defendants, AboveNet, the directors of AboveNet, and the Company (as an aider and abettor). The complaint alleges generally that AboveNet's directors breached their fiduciary duty to stockholders of AboveNet, and seeks an injunction against the merger, or, in the alternative, rescission and the recovery of unspecified damages, fees and expenses. AboveNet, the Company and the individual defendants believe the lawsuit is without merit and intend to defend themselves vigorously. AboveNet and the individual director defendants' responses were filed on July 22, 1999. In connection with these responses, a motion to dismiss the complaint in its entirety and a motion to stay discovery pending the outcome of the motion to dismiss were filed by the AboveNet and the individual directors of AboveNet on July 22, 1999. Similar motions to dismiss the complaint and stay discovery were filed by the Company on July 26, 1999. Upon stipulation of the parties, this action was dismissed without prejudice in December 1999.

Four other complaints, which are virtually identical to the complaint in *Kaufman v. Tuan*, have also been filed in the Delaware Court of the Chancery. None of these four complaints have been served. The four actions are captioned *Brosious v. Tuan, et al*, Del. Ch. C.A. No. 17271NC, *Chong v. Tuan, et al*, Del. Ch. C.A. No. 17281NC, *Ehlert v. Tuan, et al*, Del. Ch. C.A. No. 17284NC, *Horn v. Tuan, et al*, Del. Ch. C.A. No. 17300NC.

In addition, the Company is subject to various claims and proceedings in the ordinary course of business

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Note 18: Commitments and Contingencies (Continued)

Based on information currently available, the Company believes that none of such current claims, or proceedings, individually, or in the aggregate, including the Contardi litigation and the Goldsmith litigation, will have a material adverse effect on our financial condition or results of operations, although the Company can make no assurances in this regard.

Note 19: Selected Quarterly Financial Data (unaudited):

Selected financial information for the quarterly periods in 1999 and 1998 is presented below (in thousands, except per share amounts):

	<u>First Quarter of</u>		<u>Second Quarter of</u>	
	<u>1999</u>	<u>1998</u>	<u>1999</u>	<u>1998</u>
Revenues	\$ 18,379	\$ 1,726	\$ 20,294	\$ 7,407
Operating income(loss)	2,853	(5,941)	2,157	572
Net income(loss)	(5,814)	(4,247)	(6,464)	2,190
Income (loss) per common share - Basic	\$ (0.02)	\$ (0.01)	\$ (.02)	\$.01
	<u>Third Quarter of</u>		<u>Fourth Quarter of</u>	
	<u>1999</u>	<u>1998</u>	<u>1999</u>	<u>1998</u>
Revenues	\$ 10,723	\$ 11,707	\$ 25,851	\$ 15,596
Operating income(loss)	(23,041)	2,513	(55,045)	5,463
Net income (loss)	(32,012)	3,123	(70,648)	(80)
Income (loss) per common share - Basic	\$ (0.08)	\$.01	\$ (.16)	\$ (.01)

Metromedia Fiber Network, Inc. & Subsidiaries
Notes to Consolidated Financial Statements

Metromedia Fiber Network, Inc. & Subsidiaries

Schedule II

VALUATION AND QUALIFYING ACCOUNTS

<u>Description</u>	<u>Balance at Beginning of Year</u>	<u>Additions Charged to Costs and Expenses</u>	<u>Adjustments</u>	<u>Balance at End of Year</u>
Reserves deducted from assets to which they apply:				
<u>Trade Receivables</u>				
1997	\$ -	\$ -	\$ -	\$ -
1998	\$ -	\$ -	\$ -	\$ -
1999	\$ -	\$ -	\$ 450,000	\$ 450,000
<u>Other Current Assets</u>				
1997	\$ -	\$ 337,500	\$ -	\$ 337,500
1998	\$ 337,500	\$ -	\$ -	\$ 337,500
1999	\$ 337,500	\$ -	\$ (126,562)	\$ 210,938

Exhibit 21.1**Metromedia Fiber Network, Inc. & Subsidiaries as of March 17, 2000**

<u>Name</u>	<u>Jurisdiction</u>	<u>D/B/A</u>
Metromedia Fiber Network, Inc.	DE	
Metromedia Fiber Network Services, Inc.	DE	
Metromedia Fiber Network of Illinois, Inc.	DE	
Metromedia Fiber Network of New Jersey, Inc.	DE	
Metromedia Fiber Network of NYC, Inc.	DE	
International Optical Network, L.L.C. (f/k/a MFNRAC, L.L.C.)	DE	ION
MFN of VA, L.L.C.	VA	
MFN Purchasing, Inc.	DE	
MFN International, Inc.	DE	
MFN Holdings GmbH	Germany	
Metromedia Fiber Network GmbH	Germany	
Metromedia Fiber Network Services GmbH	Germany	
Metromedia Fiber Network B.V.	Netherlands	
Abovenet Communications, Inc.	DE	
Paix Net, Inc.	DE	
Communications Systems Development, Inc.	DE	
Metromedia Fiber Network Europe Finance, Inc.	DE	

Exhibit 23.1

**Metromedia Fiber Network, Inc. & Subsidiaries
As of March 17, 2000**

CONSENT OF INDEPENDENT AUDITORS

We consent to the incorporation by reference in the Registration Statements (form S-3) pertaining to (i) the AboveNet Warrants and (ii) the Company's Secondary and Debt Offering and (Form S-8) Pertaining to the (i) Metromedia Fiber Network, Inc. 1998 Incentive Stock Plan and (ii) Metromedia Fiber Network, Inc. 1997 Incentive Stock Plan and (iii) the AboveNet Communications, Inc. 1998 Stock Incentive Plan, the AboveNet Communications, Inc. 1997 Stock Plan and the AboveNet Communications, Inc. 1996 Stock Option Plan and employment and consulting agreements of our report dated March 8, 2000 with respect to the consolidated financial statements and schedule of Metromedia Fiber Network, Inc. included in the Annual Report (Form 10-K) for the year ended December 31, 1999.

Ernst & Young LLP

ERNST & YOUNG LLP

New York, New York
March 17, 2000

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EXHIBIT DEC-4

TITLE SHEET

TELECOMMUNICATIONS SERVICES

This price list applies to the provision of dedicated one-way and/or two-way information transmission services furnished by Metromedia Fiber Network Services, Inc. ("MFNS" or "Company" or "Carrier") between one or more points in the State of Tennessee. This price list is on file with the Tennessee Regulatory Authority, and copies may be inspected during normal business hours, at MFNS' principal place of business, 1 North Lexington Avenue, White Plains, New York 10601.

Issued:[Date Filed]

Effective: [Date Effective]

Issued by: Ron French, Vice President - Product Development
Metromedia Fiber Network Services, Inc.
1 North Lexington Avenue
White Plains, NY 10601

CHECK SHEET

The Title Page and pages of this price list are effective as of the date shown at the bottom of the respective sheet(s). Original and revised pages as named below comprise all changes from the original price list and are currently in effect as of the date on the bottom of this page.

<u>Page</u>	<u>Number of Revisions Except as Indicated</u>	<u>Page</u>	<u>Number of Revisions Except as Indicated</u>
1	Original	26	Original
2	Original	27	Original
3	Original	28	Original
4	Original	29	Original
5	Original	30	Original
6	Original	31	Original
7	Original	32	Original
8	Original	33	Original
9	Original	34	Original
10	Original	35	Original
11	Original	36	Original
12	Original	37	Original
13	Original	38	Original
14	Original	39	Original
15	Original	40	Original
16	Original	41	Original
17	Original	42	Original
18	Original	43	Original
19	Original	44	Original
20	Original	45	Original
21	Original	46	Original
22	Original	47	Original
23	Original	48	Original
24	Original	49	Original
25	Original	50	Original

* New or revised page

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1. EXPLANATION OF SYMBOLS, REFERENCE MARKS, AND ABBREVIATIONS OF TECHNICAL TERMS USED IN THIS PRICE LIST

The following symbols shall be used in this price list for the purpose indicated below:

- C - To signify changed regulation.
- D - To signify discontinued rate or regulation.
- I - To signify increased rate.
- M - To signify a move in the location of text.
- N - To signify new rate or regulation.
- R - To signify reduced rate.
- S - To signify reissued matter.
- T - To signify a change in text but no change in rate or regulation.

1.1 PRICE LIST FORMAT

1.1.1 Page Numbering - Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the price list. When a new page is added between pages already in effect, a decimal is added. For example, a new page added between pages 14 and 15 would be 14.A.

1.1.2 Page Revision Numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Commission. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of various suspension periods, deferrals, etc. the Commission follows in their price list approval process, the most current page number on file with the Commission is not always the price list page in effect.

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1. EXPLANATION OF SYMBOLS, REFERENCE MARKS, AND ABBREVIATIONS OF
TECHNICAL TERMS USED IN THIS PRICE LIST (Cont'd)

1.1 PRICE LIST FORMAT (Cont'd)

- 1.1.3 Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

1.
1.1.
1.1.1.
1.1.1.A.
1.1.1.A.1.
1.1.1.A.1.a.
1.1.1.A.1.a.1.
1.1.1.A.1.a.1.i.

- 1.1.4 Check Sheets - When a Price list filing is made with the Commission, an updated check sheet accompanies the price list filing. The check sheet lists the sheets contained in the price list, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on the check sheet if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some pages). The price list user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the Commission.

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2. DEFINITIONS

Certain terms used generally throughout this price list are described below.

Advance Payment

Part or all of a payment required before the start of service.

Authorized User

A person, firm or corporation which is authorized by the Customer or joint user to be connected to the service of the Customer or joint user, respectively.

Carrier or Company or MFNS

Metromedia Fiber Network Services, Inc., the issuer of this Price List.

Commission

The Tennessee Regulatory Authority.

Customer

The person, firm, or corporation which orders service and is responsible for the payment of charges and compliance with the Company's regulations.

Dedicated

A facility or equipment system or subsystem set aside for the sole use of a specific Customer.

End User or User

Any person or entity that obtains the Company's services provided under this price list, regardless of whether such person or entity is so authorized by the Customer.

Individual Case Basis (ICB)

A service arrangement in which the regulation, rates and charges are developed based on the specific circumstances of the case.

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2. DEFINITIONS (Cont'd)

LATA

A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the NATIONAL EXCHANGE CARRIER ASSOCIATION, Inc. Price list F.C.C. No. 4 or as modified by the Federal Communications Commission (FCC).

Network

Refers to the Company's facilities, equipment, and services provided under this price list.

Network Service

Intrastate communications service providing dedicated one-way and/or two-way information transmission paths between points within the State of Tennessee.

Service Commencement Date

The first date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this price list, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and the Customer may mutually agree on a substitute Service Commencement Date. If the Company does not have an executed Service Order from a Customer, the Service Commencement Date will be the first date on which the service or facility was used by a Customer.

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2. DEFINITIONS (Cont'd)

Service Order

The written request for dedicated services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this price list, but the duration of the service is calculated from the Service Commencement Date. Should a Customer use the Company's dedicated service without an executed Service Order, the Company will then request the Customer to submit a Service Order.

Shared

A facility or equipment system or subsystem that can be used simultaneously by several Customers.

User

A Customer, joint user, or any other person authorized by a Customer to use service provided under this price list.

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3. APPLICATION OF PRICE LIST

- 3.1 This price list applies to intrastate dedicated communications service supplied to Customers by the Company.

This price list applies only to the extent that services provided hereunder are used by a Customer for the purpose of originating, terminating, or completing intrastate communications. A communication is "intrastate" only if all points of origination and termination are located within the State of Tennessee.

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4. REGULATIONS

4.1 Undertaking of the Company

4.1.1 Scope

The Company undertakes to furnish dedicated services in accordance with the terms and conditions set forth in this price list.

4.1.2 Shortage of Facilities

All service is subject to the availability of suitable facilities. The Company reserves the right to limit the length of communications or to discontinue furnishing services when necessary because of the lack of transmission medium capacity or because of any causes beyond its control.

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.3 Terms and Conditions

- (A) Service is provided on the basis of a minimum period of at least one month, 24-hours per day. For the purpose of computing charges in this price list, a month is considered to have 30 days.
- (B) Customers may be required to enter into written service orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this price list. Customers will also be required to execute any other documents as may be reasonably requested by the Company.
- (C) In any action between the parties to enforce any provision of this price list, the prevailing party shall be entitled to recover its legal fees and court costs from the non-prevailing party in addition to other relief a court may award.
- (D) This price list shall be interpreted and governed by the laws of the State of Tennessee regardless of its choice of laws provision.

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability

- (A) Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representatives, or use of these services; or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in this price list.
- (B) Except for the extension of allowances to the Customer for interruptions in service as set forth in this Price list, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.
- (C) The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability (Cont'd)

(D) The Company shall not be liable for any claims for loss or damages involving:

- (1) Any act or omission of: (a) the Customer; (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen;
- (2) Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
- (3) Any unlawful or unauthorized use of the Company's facilities and services;

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability (Cont'd)

(D) (Cont'd)

- (4) Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services with Customer-provided facilities or services;
- (5) Breach in the privacy or security of communications transmitted over the Company's facilities;
- (6) Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in this Price list.
- (7) Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability (Cont'd)

(D) (Cont'd)

- (8) Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
- (9) Any intentional, wrongful act of a Company employee when such act is not within the scope of the employee's responsibilities for the Company and/or is not authorized by the Company; or
- (10) Any representations made by Company employees that do not comport, or that are inconsistent, with the provisions of this Price list.

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability (Cont'd)

- (E) The Company shall be indemnified, defended, and held harmless by the Customer or end user from and against any and all claims, loss, demands, suits, expense, or other action or any liability whatsoever, including attorney fees, whether suffered, made, instituted, or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use, or removal of any Company or Customer equipment or facilities or service provided by the Company.
- (F) The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. The Company shall be indemnified, defended and held harmless by the Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, including attorney fees, whether suffered, made, instituted, or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage, or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use, or removal of any equipment or facilities or the service.

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1 North Lexington Avenue
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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.4 Limitations on Liability (Cont'd)

- (G) The Company assumes no responsibility for the availability or performance of any cable or satellite systems or related facilities under the control of other entities, or for other facilities provided by other entities used for service to the Customer, even if the Company has acted as the Customer's agent in arranging for such facilities or services. Such facilities are provided subject to such degree of protection or nonpreemptibility as may be provided by the other entities.
- (H) Except as otherwise stated in this Price list, any claim of whatever nature against the Company shall be deemed conclusively to have been waived unless presented in writing to the Company within thirty (30) days after the date of the occurrence that gave rise to the claim.
- (I) THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.5 Testing and Adjusting

Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such tests, adjustments, or inspections.

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.6 Provision of Equipment and Facilities

- (A) Except as otherwise indicated, Customer-provided station equipment at the Customer's premises for use in conjunction with this service shall be so constructed, maintained, and operated as to work satisfactorily with the facilities of the Company.
- (B) The Company shall not be responsible for the installation, operation, or maintenance of any Customer-provided communications equipment. Where such equipment is connected to service furnished pursuant to this price list, the responsibility of the Company shall be limited to the furnishing of services under this price list and to the maintenance and operation of such services in the proper manner. Subject to this responsibility, the Company shall not be responsible for:
 - (1) the through transmission of signals generated by Customer-provided equipment or for the quality of, or defects in, such transmission; or
 - (2) the reception of signals by Customer-provided equipment; or
 - (3) network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

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4. REGULATIONS (Cont'd)

4.1 Undertaking of the Company (Cont'd)

4.1.7 Special Construction

Subject to the arrangement of the Company and to all of the regulations contained in this price list, special construction of facilities may be undertaken on a reasonable efforts basis at the request of the Customer. Special construction is that construction undertaken:

- (A) where facilities are not presently available, and there is no other requirement for the facilities so constructed;
- (B) of a type other than that which the Company would normally utilize in the furnishing of its services;
- (C) over a route other than that which the Company would normally utilize in the furnishing of its services;
- (D) in a quantity greater than that which the Company would normally construct;
- (E) on an expedited basis;
- (F) on a temporary basis until permanent facilities are available;
- (G) involving abnormal costs; or
- (H) in advance of its normal construction.

Special construction charges will be determined pursuant to Section 5.1.4.

4.1.8 Ownership of Facilities

Title to all facilities provided in accordance with this price list remains in the Company, its agents, contractors, or suppliers.

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4. REGULATIONS (Cont'd)

4.2 Prohibited Uses

- 4.2.1 The services the Company offers shall not be used for any unlawful purpose or for any use for which the Customer has not obtained all required governmental approvals, authorization, licenses, consents, and permits.
- 4.2.2 The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offering complies with relevant laws and regulations, policies, orders, and decisions.
- 4.2.3 The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.
- 4.2.4 A Customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated access services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this Price list will apply.

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4. REGULATIONS (Cont'd)

4.3 Obligations of the Customer

4.3.1 Customer Premises Provisions

- (A) The Customer shall provide the personnel, power, and space required to operate all facilities and associated equipment installed on the premises of the Customer.
- (B) The Customer shall be responsible for providing Company personnel access to premises of the Customer at any reasonable hour for the purpose of testing the facilities or equipment of the Company.

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4. REGULATIONS (Cont'd)

4.3 Obligations of the Customer (Cont'd)

4.3.2 Liability of the Customer

- (A) The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invitees, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.
- (B) To the extent caused by any negligent or intentional act of the Customer as described in (A), preceding, the Customer shall indemnify, defend, and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees, for (1) any loss, destruction, or damage to property of any third party, (2) the death of or injury to persons, including, but not limited to, employees or invitees of either party, and (3) any liability incurred by the Company to any third party pursuant to this or any other price list of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.
- (C) The Customer shall not assert any claim against any other Customer or user of the Company's services for damages resulting in whole or in part from or arising in connection with the furnishing of service under this price list including but not limited to mistakes, omissions, interruptions, delays, errors, or other defects or misrepresentations, whether or not such other Customer or user contributed in any way to the occurrence of the damages, unless such damages were caused solely by the negligent or intentional act or omission of the other Customer or user and not by any act or omission of the Company. Nothing in this price list is intended either to limit or to expand Customer's right to assert any claims against third parties for damages of any nature other than those described in the preceding sentence.

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4. REGULATIONS (Cont'd)

4.4 Customer Equipment and Channels

4.4.1 Interconnection of Facilities

(A) Customer Provided Equipment

Customer provided terminating equipment such as CSUs, multiplexers, and other terminating equipment may, at the Customer's request, be provided by the Customer, at the Customer's expense. Carrier makes no guarantees or warranties as to the performance of Customer provided equipment.

- (B) In order to protect the Company's facilities and personnel and the services furnished to other Customers by the Company from potentially harmful effects, the signals applied to the Company's service shall be such as not to cause damage to the facilities of the Company. Any special interface equipment necessary to achieve the compatibility between facilities of the Company and the channels or facilities of others shall be provided at the Customer's expense.

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4. REGULATIONS (Cont'd)

4.4 Customer Equipment and Channels (Cont'd)

4.4.2 Inspections

- (A) The Company may, upon notification to the Customer, at a reasonable time, make such tests and inspections as may be necessary to determine that the requirements regarding the equipment and interconnections are being complied with in respect to the installation, operation and maintenance of Customer-provided equipment and in the wiring of the connection of Customer channels to Company-owned facilities.
- (B) If the protective requirements in connections with Customer provided equipment are not being complied with, the Company may take such action as necessary to protect its facilities and personnel and will promptly notify the Customer by registered mail in writing of the need for protective action. In the event that the Customer fails to advise the Company within 10 days after such notice is received or within the time specified in the notice that corrective action has been taken, the Company may take whatever additional action is deemed necessary, including canceling service, to protect its facilities and personnel from harm. The Company will upon request 24 hours in advance provide Customer with a statement of technical parameters that the Customer's equipment must meet.

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4. REGULATIONS (Cont'd)

4.4 Customer Equipment and Channels

4.4.3 Station Equipment

- (A) Customer-provided terminal equipment on the premises of the Customer or other authorized user, the operating personnel there, and the electric power consumed by such equipment shall be provided by and maintained at the expense of the Customer, authorized user, or joint user.
- (B) The Customer or other authorized user is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company-provided equipment and wiring or injury to the Company's employees or to other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.

4.4.4 Interconnection Provisions

Facilities furnished under this price list may be connected to Customer-provided terminal equipment in accordance with the provisions of this price list.

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4. REGULATIONS (Cont'd)

4.5 Customer Deposits and Advance Payments

4.5.1 Advance Payments

To safeguard its interests, the Company may require a Customer to make an advance payment before services and facilities are furnished. The advance payment will not exceed an amount up to two months of estimated monthly usage charges. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the Customer. The advance payment will be credited to the Customer's initial bill. An advance payment may be required in addition to a deposit.

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4. REGULATIONS (Cont'd)

4.5 Customer Deposits and Advance Payments (Cont'd)

4.5.2 Deposits

- (A) To safeguard its interests, the Company may require the Customer to make a deposit to be held as a guarantee for the payment of charges. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. The deposit will not exceed an amount equal to:
 - (1) three months' charges for a service or facility which has a minimum payment period of one month; or
 - (2) the charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable.
- (B) A deposit may be required in addition to an advance payment.
- (C) When a service or facility is discontinued, the amount of a deposit, if any, will be applied to the Customer's account and any credit balance remaining will be refunded. Before the service or facility is discontinued, the Company may, at its option, return the deposit or credit it to the Customer's account. If the amount of the deposit is insufficient to cover the balance due to the Customer's account, the Company retains the right to collect any amounts owing after the deposit has been applied plus any costs related to the collection of any remaining balance.
- (D) Deposits held will accrue interest at a rate of 7% per annum. Interest will not accrue on any deposit after the date on which reasonable effort has been made to return it to the Customer.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements

4.6.1 Payment for Service

The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

(A) Taxes

The Customer is responsible for payment of any sales, use, gross receipts, excise, access, or other local, state and federal taxes, charges or surcharges (however designated) (excluding taxes on the Company's net income) imposed on or based upon the provision, sale, or use of Network Services.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements

4.6.2 Billing and Collection of Charges

The Customer is responsible for payment of all charges incurred by the Customer or other users for services and facilities furnished to the Customer by the Company.

- (A) Non-recurring charges are due and payable within 30 days after the date of the invoice.
- (B) The Company shall present invoices for Recurring Charges monthly to the Customer, in advance of the month in which service is provided, and Recurring Charges shall be due and payable within 30 days after the date of the invoice. When billing is based upon Customer usage, usage charges will be billed monthly for the preceding billing period.
- (C) When service does not begin on the first day of the month, or end on the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have 30 days.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.2 Billing and Collection of Charges (Cont'd)

- (D) Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this price list or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement, or component is discontinued.
- (E) If any portion of the payment is received by the Company after the date due, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the date due, multiplied by a late factor. The late factor shall be the lesser of:
 - (1) a rate of 1.5 percent per month; or
 - (2) the highest interest rate which may be applied under Tennessee state law for commercial transactions.
- (F) The Customer will be assessed a charge of twenty-five dollars (\$25.00) for each check submitted by the Customer to the Company which a financial institution refuses to honor.
- (G) If service is disconnected by the Company in accordance with Section 4.6.4 following and later reinstalled, service will be subject to all applicable installation charges. If service is suspended by the Company and later restored, service will be subject to all applicable restoration charges.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.3 Billing Disputes

(A) General

All bills are presumed accurate, and shall be binding on the Customer unless notice of the disputed charge(s) is received by the Company within 90 days (commencing 5 days after such bills have been mailed or otherwise rendered per the Company's normal course of business). For the purposes of this section, "notice" is defined as written notice to the Company, containing sufficient documentation to investigate the dispute, including the account number under which the bill has been rendered, the date of the bill, and the specific items on the bill being disputed.

(B) Late Payment Charge

- (1) The undisputed portions of the bill must be paid by the payment due date to avoid assessment of a late payment charge on the undisputed amount as provided in this price list.
- (2) In the event that a billing dispute is resolved by the Company in favor of the Customer, any disputed amount withheld pending resolution of the billing dispute shall not be subject to the late payment charge.
- (3) In the event that a billing dispute is resolved in favor of the Company, the Customer shall pay the late payment charge.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.3 Billing Disputes (Cont'd)

(C) Adjustments or Refunds to the Customer

- (1) In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
- (2) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
- (3) In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment by the Customer.
- (4) All adjustments or refunds provided by the Company to the Customer at the Customer's request, or provided by the Company to the Customer by way of compromise of a billing dispute, and which are accepted by the Customer, are final and constitute full satisfaction, settlement, and/or compromise of all of the Customer's claims for the billing period for which the adjustment or refund was issued.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.3 Billing Disputes (Cont'd)

(D) Unresolved Billing Disputes

In the case of a billing dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer has up to 90 days (commencing 5 days after such bills have been mailed or otherwise rendered per the Company's normal course of business) to take the following course of action.

- (1) First, the Customer may request and the Company will provide an in-depth review of the disputed amount.
- (2) Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505
Carson City, NV 89701
(800) 342-8359

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.4 Discontinuance of Service for Cause

- (A) Upon nonpayment of any amounts owing to the Company, the Company may, by giving 24 hours prior written notice to the Customer, discontinue or suspend service without incurring any liability.
- (B) Upon violation of any of the other material terms or conditions for furnishing service the Company may, by giving 24 hours prior notice in writing to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- (C) Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.
- (D) Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law, the Company may immediately discontinue or suspend service without incurring any liability.
- (E) Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.4 Discontinuance of Service for Cause (Cont'd)

- (F) In the event of fraudulent use of the Company's network, the Company may without notice suspend or discontinue service. The Customer will be liable for all related costs. The Customer will also be responsible for payment of any reconnection charges.
- (G) Upon the Company's discontinuance of service to the Customer under this section, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this price list, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable (discounted to present value at six percent).

4.6.5 Notice to Company for Cancellation of Service

Customers desiring to terminate service shall provide Company thirty (30) days written notice of their desire to terminate service.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.6 Customer Overpayment

The Company will pay interest on a Customer overpayment. Customer overpayment shall mean a payment to the Company in excess of the correct charges for service when caused by erroneous billing by the Company. The rate of interest shall be the unadjusted interest rate paid on Customer deposits or the late payment penalty rate, whichever is greater. Interest shall be paid from the date when the Customer overpayment was made, adjusted for any changes in the deposit interest rate or late payment penalty rate, and compounded monthly, until the date when the overpayment is refunded. No interest shall be paid on Customer overpayments that are refunded within thirty (30) days after such overpayment is received by the Company.

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4. REGULATIONS (Cont'd)

4.6 Payment Arrangements (Cont'd)

4.6.7 Cancellation of Application for Service

- (A) The Customer may cancel an application for service prior to installation of the equipment provided that the Customer immediately pay the Company any out of pocket expenses incurred by the Company plus a cancellation fee of two times the applicable monthly recurring service charge.
- (B) Out of pocket expenses include but are not limited to the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.

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4. REGULATIONS (Cont'd)

4.7 Allowances for Interruptions in Service

4.7.1 General

- (A) A credit allowance will be given when service is interrupted, except as specified below. A service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit or receive, because of a failure of a component furnished by the Company under this price list.
- (B) An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- (C) If the Customer reports a service, facility, or circuit to be interrupted but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility, or circuit considered by the Company to be impaired.

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4. REGULATIONS (Cont'd)

4.7 Allowances for Interruptions in Service (Cont'd)

4.7.2 Limitations of Allowances

No credit allowance will be made for any interruption in service:

- (A) Due to the negligence of or noncompliance with the provisions of this price list by any person or entity other than the Company, including but not limited to the Customer or other common carriers connected to the service of the Company;
- (B) Due to the failure of power, equipment, systems, connections, or services not provided by the Company;
- (C) Due to circumstances or causes beyond the control of the Company;
- (D) During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- (E) During any period in which the Customer continues to use the service on an impaired basis;
- (F) During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- (G) That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; and
- (H) That was not reported to the Company within thirty (30) days of the date that service was affected.

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4. REGULATIONS (Cont'd)

4.7 Allowances for Interruptions in Service (Cont'd)

4.7.3 Use of Another Means of Communications

If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

4.7.4 Application of Credits for Interruptions in Service

- (A) Credits for interruptions in service that is provided and billed on a flat rate basis for a minimum period of at least one month, beginning on the date that billing becomes effective, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the period of service during which the event that gave rise to the claim for a credit occurred. A credit allowance is applied on a pro rata basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.
- (B) For calculating credit allowances, every month is considered to have thirty (30) days.
- (C) A credit allowance will be given for interruptions in service of 15 minutes or more. Two or more interruptions of 15 minutes or more during any one 24-hour period shall be considered as one interruption.

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4. REGULATIONS (Cont'd)

4.7 Allowances for Interruptions in Service (Cont'd)

4.7.4 Application of Credits for Interruptions in Service (Cont'd)

(D) Interruptions of 24 Hours or Less

<u>Length of Interruption</u>	<u>Interruption Period To Be Credited</u>
Less than 15 minutes	None
15 minutes up to but not including 3 hours	1/10 Day
3 hours up to but not including 6 hours	1/5 Day
6 hours up to but not including 9 hours	2/5 Day
9 hours up to but not including 12 hours	3/5 Day
12 hours up to but not including 15 hours	4/5 Day
15 hours up to but not including 24 hours	One Day

(E) Continuous Interruption Over 24 Hours and Less Than 72 Hours.

Interruptions over 24 hours and less than 72 hours will be credited 1/5 day for each three-hour period or fraction thereof that occurs following the expiration of the initial 24-hour period. No more than one full day's credit will be allowed for any period of 24 hours.

(F) Interruptions Over 72 Hours.

Interruptions over 72 hours will be credited 2 days for each full 24-hour period that occurs following the expiration of the initial 72-hour period. No more than 30 days credit will be allowed for any one-month period.

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4. REGULATIONS (Cont'd)

4.7 Allowances for Interruptions in Service (Cont'd)

4.7.5 Cancellation For Service Interruption

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 8 hours or more or cumulative service credits equaling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

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4. REGULATIONS (Cont'd)

4.8 Cancellation of Service/Termination Liability

If a Customer cancels a Service Order or terminates services before the completion of the term for any reason whatsoever other than a service interruption, Customer agrees to pay to Company termination liability charges, which are defined below. These charges shall become due and owing as of the effective date of the cancellation or termination and be payable within the period set forth in this price list.

4.8.1 Termination Liability

Customer's termination liability for cancellation of service shall be equal to:

- (A) all unpaid Non-Recurring charges reasonably expended by Company to establish service to Customer, plus;
- (B) any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus;
- (C) all Recurring Charges specified in the applicable Service Order for the balance of the then current term discounted at the prime rate announced in the Wall Street Journal on the third business day following the date of cancellation;
- (D) minus a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.

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1 North Lexington Avenue
White Plains, NY 10601

4. REGULATIONS (Cont'd)

4.9 Customer Liability for Unauthorized Use of the Network

4.9.1 Unauthorized Use of the Network

- (A) Unauthorized use of the Network occurs when: (1) a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's services provided under this price list; or (2) a person or entity that otherwise has actual, apparent, or implied authority to use the Network, makes fraudulent use of the Network to obtain the Company's services provided under this price list, or uses specific services that are not authorized.
- (B) The following activities constitute fraudulent use:
- (1) Using the Network to transmit a message, locate a person, or otherwise give or obtain information, without payment for the service;
 - (2) Using or attempting to use the Network with the intent to avoid payment, either in whole or part, of any of the Company's price listed charges by either rearranging, tampering with, or making connections not authorized by this price list to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices;
 - (3) Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices to defraud or mislead callers.

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4. REGULATIONS (Cont'd)

4.9 Customer Liability for Unauthorized Use of the Network (Cont'd)

4.9.1 Unauthorized Use of the Network (Cont'd)

- (C) Customers are advised that use of telecommunications equipment and services, including that provided under this price list, carries a risk of various forms of telecommunications fraud (including, but not limited to, toll and PBX fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security, or authorization codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this price list.

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4. REGULATIONS (Cont'd)

4.9 Customer Liability for Unauthorized Use of the Network (Cont'd)

4.9.2 Liability for Unauthorized Use

- (A) Except as provided for elsewhere in this price list, the Customer is responsible for payment of all charges for services provided under this price list furnished to the Customer or User. This responsibility is not changed due to any use, misuse, or abuse of the Customer's service or Customer-provided equipment by Users or other third parties, the Customer's employees, or the public.
- (B) The Customer is liable for all costs incurred as a result of unauthorized use of the Network, including service charges and any direct, indirect, special, incidental, reliance, consequential, exemplary, or punitive charges.
- (C) The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.

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5. SERVICE DESCRIPTIONS AND RATES

5.1 High Capacity

5.1.1 Basic Service Description

High Capacity Service provides point-to-point digital facilities for two-way transmission of serial, bipolar, return to zero isochronous digital signals at a transmission speed of 1.544 Megabits per second.

5.1.2 Terms and Conditions

- (A) High Capacity Service can only be provided from wire centers equipped for digital transmission. This service is subject to the technical limitations of the CO equipment used by the Company.
- (B) A wire center may be equipped for digital transmission at the request of the Customer. Special construction charges may apply depending on the circumstances in each case.
- (C) Special construction charges may apply to technically equip facilities to accommodate a Customer request.
- (D) All signals transmitted over High Capacity Service must be compatible with the Company's specifications and formats to preserve the integrity of the network.

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5. SERVICE DESCRIPTIONS AND RATES (Cont'd)

5.1 High Capacity (Cont'd)

5.1.3 Optional Features and Functions

Automatic Loop Transfer - The Automatic Loop Transfer provides protection on a IXN basis against failure of the facilities between a customer designated premises and the wire center serving that premises. Protection is furnished through the use of a switching arrangement that automatically switches to a spare channel when a working channel fails. The spare channel is not included as a part of the option. This option requires compatible equipment at both the serving wire center and the Customer premises. The Customer is responsible for providing the equipment at it's premises. This feature is not available with channels having B8ZS line code.

Transfer Arrangement - An arrangement that affords the Customer an additional measure of flexibility in the use of their Private Line Transport channel(s). The arrangement can be utilized to transfer a leg of ta Private Line Transport Service to another channel that terminates in either the same or different Customer designated premises.

Cental Office Multiplexing - An arrangement which converts a 44.736 Mbps DS3 channel to twenty-eight 1.544 Mbps DS1 channels utilizing time division multiplexing. The twenty-eight channels may be further multiplexed utilizing DS1 multiplexers.

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